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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Annual report of the Special Representative of the Secretary-
General on Violence against Children****Note by the Secretariat**

The Secretariat has the honour to transmit to the Human Rights Council the annual report of the Special Representative of the Secretary-General on Violence against Children, Marta Santos Pais, pursuant to General Assembly resolution 70/137.

In her report, the Special Representative provides an overview of major initiatives and developments aimed at sustaining and scaling up efforts to safeguard children's right to be free from violence. The report is in support of implementation of the 2030 Agenda for Sustainable Development and its distinct target to end all forms of violence against children, and builds upon the commemoration in 2016 of the tenth anniversary of the submission to the General Assembly of the United Nations study on violence against children.

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Annual report of the Special Representative of the Secretary-General on Violence against Children

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I. Introduction

1. In the present report, the Special Representative of the Secretary-General on Violence against Children reviews key developments promoted at the global, regional and national levels to enhance the protection of children from violence.
2. The Special Representative is guided by General Assembly resolution 62/141, in which the Assembly established the mandate, and acts as a bridge builder and a global, independent advocate for the prevention and elimination of all forms of violence against children. In its resolution 70/137, the Assembly expressed support for the work of the Special Representative and recommended that the Secretary-General extend the mandate for a further period of three years, and maintain support for the effective and independent performance and sustainability of the mandate, funded from the regular budget.
3. The Special Representative remains strongly committed to accelerating progress in the protection of children from violence and to seizing the unique opportunity presented by the implementation of the 2030 Agenda for Sustainable Development. The inclusion in the 2030 Agenda of a distinct target, target 16.2, to eliminate all forms of violence against children is an historic achievement that can galvanize political will and reignite action to build a world free from fear and from violence for all, leaving no child behind.
4. Over the past year, the Special Representative has promoted important processes and mobilization initiatives to strengthen the protection of children from violence around the world with national authorities, United Nations agencies, regional organizations, non-governmental and faith-based organizations, the private sector and the media, as well as child-led networks. The year was marked by the adoption of several regional plans of action to prevent and eliminate violence against children and the promotion of significant partnerships to mobilize support for their protection. At the national level, important progress was made with the enactment of new legislation to ban violence in all its forms, the adoption of policy frameworks to guide implementation, and the further consolidation of data and research to inform evidence-based action.
5. The year was also marked by the adoption by the World Health Assembly of resolution WHA69.5,¹ in which the Assembly endorsed the World Health Organization (WHO) global plan of action to strengthen the role of the health system within a national multisectoral response to address interpersonal violence, in particular against women and girls, and against children. WHO also released INSPIRE,² a package of evidence-based strategies to prevent and respond to violence against children. Furthermore, a global study led by ECPAT-End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes was issued to shed light on and reinforce collective efforts for the protection of children from sexual exploitation in travel and tourism.³ And the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by an inter-agency working group meeting in Luxembourg, were released to provide conceptual clarity to actions aimed at the protection of children, close legal loopholes and address misinterpretations that may put their safety at risk.⁴
6. Protection of children online remained high on the agenda of the Special Representative. In this regard, she continued to support important multi-stakeholder initiatives, including the WePROTECT Global Alliance to End Child Sexual Exploitation

¹ See http://apps.who.int/gh/cbwha/pdf_files/WHA69/A69_R5-en.pdf.

² See www.who.int/violence_injury_prevention/violence/inspire/en/.

³ See <http://globalstudysect.org/>.

⁴ See <http://luxembourgguidelines.org/english-version/>.

Online.⁵ WePROTECT has secured high-level commitments from Governments, the information and communications technology industry, international organizations and civil society. It supports comprehensive national action on prevention and response to inform and empower children and to fight impunity within and across borders.

7. As these examples illustrate, the recommendations of the United Nations study on violence against children (see A/61/299) remain as valid today as they were 10 years ago, and their potential for promoting a quantum leap in global efforts to protect children from violence has not diminished. Nor has the urgency of this cause. As a recent study has highlighted, over the past year at least one billion children between 2 and 17 years of age — half the world's children — endured some form of violence.⁶

8. Trafficking in persons continues to increase, and in some regions more than 60 per cent of victims are children. Countless millions of children are involved in exploitative work and slavery-like practices. In developing countries, one in every three girls is married before age 18 and one in nine is married before age 15, and children below 15 years represent 8 per cent of victims of homicides globally.

9. Violence in the community is widespread. As highlighted by the Special Representative in her study *Protecting Children Affected by Armed Violence in the Community*,⁷ launched during the United Nations Conference on Housing and Sustainable Urban Development, held in October 2016 in Quito, 300 million children below the age of 5 are thought to be exposed to community violence. Indeed, in many parts of the world, armed violence is often associated with gang activities and organized crime, an environment of violence that shapes children's daily life and generates fear, insecurity, and a pervasive sense that impunity prevails.

10. Bullying and cyberbullying torment millions of children. These insidious forms of violence are among children's top concerns and a key reason why children contact a helpline. As highlighted by the Special Representative in her new study on this topic, *Ending the Torment: Tackling Bullying from the Schoolyard to Cyberspace*,⁸ whether verbal, psychological or physical, whether in schools or outside of education facilities, bullying is often associated with discrimination and stereotyping of children who are in vulnerable situations (see box).

11. In his report on protecting children from bullying (A/71/213), the Secretary-General addressed this question in detail, presenting important findings from an online opinion poll promoted by the United Nations Children's Fund (UNICEF) in cooperation with the Office of the Special Representative. More than 100,000 children and adolescents were surveyed and 9 out of 10 considered that bullying was a problem; two thirds reported that they had been victims and one third of these children had told no one.

⁵ See www.weprotect.org/.

⁶ See <http://pediatrics.aappublications.org/content/early/2016/01/25/peds.2015-4079>.

⁷ United Nations publication, Sales No. E.16.1.15.

⁸ United Nations publication, Sales No. E.16.1.14.

Ending the torment: tackling bullying from the schoolyard to cyberspace

Protecting children from bullying is not just an ethical imperative or a laudable aim of public health or social policy; it is a question of human rights. Bullying is a hurtful and aggressive pattern of behaviour that is often part of a continuum, a torment that shapes children's lives at different moments and in different settings, from the schoolyard to the neighbourhood and, increasingly, into the online world.

Bullying has long been part of the social, community and school life of children. With the growing access to information and communications technologies and the wide use of smartphones by children and young people, online bullying — cyberbullying — has also become a source of concern. Spreading rumours, and posting false information, hurtful messages, embarrassing comments or photos, or being excluded from online networks can affect victims deeply. Anonymity may aggravate cyberbullying by encouraging young people to act in ways they would not in face-to-face interactions. In addition, cyberbullying can strike its victims at any time, and the harmful messages or materials can spread fast and far to an exponentially growing audience, multiplying the risks and its damaging impact.

Bullying affects children at different stages of their development, severely undermining their health, emotional well-being and school performance. It is often associated with profound feelings of dread, loneliness and helplessness. Victims may suffer sleep disorders, headaches, stomach pain, poor appetite and fatigue as well as feelings of low self-esteem, anxiety, depression, shame and, at times, suicidal thoughts. The psychological and emotional scars that are left may persist into adult life. Bullies themselves are also affected, and are also more likely than their peers to be involved in anti-social and risky behaviour later on in life. Furthermore, bullying can affect the whole school community, creating a climate of suspicion and uncertainty that can cause children to remain silent or to become complicit out of fear.

12. It is imperative that we act with the urgency that the situation requires. Guided by the human rights imperative of freeing children from violence and by the evidence gathered in recent years, we must seize the historic opportunity offered by the 2030 Agenda. Investing in violence prevention, protecting children's lives and futures and saving the resources of States will lead to a brighter future for all children.

II. Consolidating progress in the protection of children from violence

13. The past year has presented strategic opportunities and seen important developments in the elimination of violence against children at the global, regional and local levels. Ten years after the United Nations study on violence against children was submitted to the General Assembly, the protection of children from violence has evolved from a largely neglected topic into a global concern that is now included as a distinct target in the sustainable development agenda.

14. Joining forces with United Nations partners, the Special Representative has successfully promoted the mainstreaming of the protection of children from violence in the United Nations policy agenda. This collaborative effort has resulted in groundbreaking standards and action plans, including the United Nations Global Plan of Action to Combat Trafficking in Persons,⁹ as well as studies and mobilization campaigns that in turn have guided regional and national strategies, policies and measures for the prevention and elimination of violence against children.

15. The inclusion of the elimination of violence against children as a specific target and a cross-cutting concern in the 2030 Agenda stems from these converging efforts. It is the result, on the one hand, of the sense of urgency generated by the magnitude and impact of the problem and, on the other hand, by the growing body of evidence proving that there are solutions that work.

16. The agenda of the Special Representative has been guided by four strategic priorities: consolidating progress and mainstreaming implementation of the recommendations of the United Nations study; ensuring that violence against children is given prominence on the global agenda; reinforcing regional processes to enhance the protection of children from violence; and addressing emerging concerns. Significant results have been achieved, including:

(a) Consolidation of the human rights foundation for protecting children from violence through the launch in 2010 of the campaign for universal ratification of the Optional Protocols to the Convention on the Rights of the Child. This has led to a steady increase in the number of ratifications to the Optional Protocol on the sale of children, child prostitution and child pornography, in force in 173 countries, and to the promotion of new international standards, including the Optional Protocol on a communications procedure, in force in 29 States; the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization (ILO); and the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice;¹⁰

(b) Enhancing awareness and consolidating knowledge to prevent and respond to violence against children through international expert consultations, the development of research and the release of strategic thematic studies. As noted above, in 2016, two major studies *Protecting Children Affected by Armed Violence in the Community* and *Ending the Torment: Tackling Bullying from the Schoolyard to Cyberspace* were released. Previous studies by the Special Representative have addressed violence in schools and in the justice system; restorative justice for children; the rights of girls in the criminal justice system; child-sensitive counselling, and reporting and complaint mechanisms; protection of children from harmful practices; and the opportunities and risks for children associated with

⁹ General Assembly resolution 64/293, annex.

¹⁰ General Assembly resolution 69/194, annex.

information and communications technologies. Child-friendly materials were also produced to inform and empower children concerning their right to freedom from violence, most recently issued in Braille;

(c) Institutionalizing cooperation with regional organizations and institutions in all regions to advance implementation of the recommendations of the United Nations study, with periodic review meetings to assess and accelerate progress, and the hosting of six annual cross-regional round tables on the protection of children from violence.¹¹ In 2016, the cross-regional round table was devoted to the development and implementation of regional plans supporting the 2030 Agenda and its targets on combating violence against children;

(d) Strengthening national implementation efforts to free children from violence, especially through the adoption and implementation of comprehensive multisectoral national strategies in more than 90 countries, most recently in the Dominican Republic, Ecuador, Ghana, Indonesia, Nigeria, Norway and Tunisia; the enactment of national legislation banning all forms of violence against children by more than 50 countries, most recently in Ireland, the Lao People's Democratic Republic, Mongolia, Paraguay, Peru, Slovenia and Viet Nam; and the consolidation of data systems, including through national household surveys in Asia and Africa, including in Cambodia, Kenya, Malawi, Nigeria, the Lao People's Democratic Republic, the Philippines and the United Republic of Tanzania, while efforts are also under way in other countries, such as China;

(e) Promoting policy dialogue and global advocacy on neglected areas of concern and strengthening alliances among Governments, national institutions, civil society and faith-based organizations, academics and children's networks, including through the High Time to End Violence against Children initiative,¹² to mobilize action on and investment in the protection of children from violence. These efforts have been supported by over 160 missions to more than 60 countries in all regions.

III. Supporting implementation of the 2030 Agenda for Sustainable Development towards the elimination of all forms of violence against children

A. Addressing violence against children as a distinct priority concern in the 2030 Agenda for Sustainable Development

17. Realizing every child's right to freedom from violence is a fundamental element of the Convention on the Rights of the Child. The 2030 Agenda for Sustainable Development envisions a world of universal respect for human rights and human dignity, a world in which every child grows up free from violence, abuse and exploitation. Implementation of the 2030 Agenda is the path towards achieving this noble goal.

18. In 2016, the international community commemorated the tenth anniversary of the submission to the General Assembly of the United Nations study on violence against children, and the twentieth anniversary of the first World Congress against Commercial Sexual Exploitation of Children. The year 2016 also marked the first year of implementation of the 2030 Agenda, with its specific target (16.2) on ending all forms of violence against children and several other violence-related targets, including the

¹¹ See <http://srsg.violenceagainstchildren.org/page/1314>.

¹² See www.endviolenceagainstchildren.org/.

elimination of child marriage, female genital mutilation and all forms of child labour; combating organized crime and reducing violent deaths; ensuring children's safety and protection in schools and in urban communities; and children's rights to access justice and information and to a legal identity. The marking of these important milestones provided an important opportunity to reignite commitments, to consolidate the gains that have been made, to fully grasp the lessons learned, and to redouble policy efforts to build a world where children can grow up free from violence, everywhere and at all times.

19. The inclusion of violence against children as a distinct concern in the global development agenda is an historic breakthrough and presents the global community with a strategic opportunity to transform target 16.2 into a reality for all the world's children. As the implementation process of the 2030 Agenda is now well under way, the chief priority of the Special Representative is supporting efforts to accelerate progress towards the achievement of all the violence-related targets of the Sustainable Development Goals, especially target 16.2. Protecting children from violence must not remain simply an ideal; indeed, the international community has a special responsibility to translate the ideal into tangible change for every child.

20. The adoption of the Sustainable Development Goals demonstrates a shared sense of purpose on the part of the international community and gives renewed impetus to global efforts. In addition, it conveys a heightened sense of urgency to act and ensure that no one is left behind. It is incumbent upon all Governments and other stakeholders to show leadership and to inspire and mobilize action.

21. This is no time for complacency. Around the world, millions of girls and boys of all ages continue to be exposed to appalling levels of violence, in their neighbourhoods, in their schools, in institutions aimed at their care and protection, and also within the home.

22. The roots of violence against children are multifaceted, and preventing and eliminating it require a multisectoral and integrated approach, as recognized in the 2030 Agenda. Indeed, violence goes hand in hand with vulnerability and deprivation, with high risks of poor health, poor school performance and, at times, long-term welfare dependency. Children exposed to violence — at home, in schools, in the community, at work, in care and justice institutions or online — are at greater risk of enduring cumulative acts of violence and engaging in aggressive and violent behaviour later in life.

23. Violence leaves long-lasting scars on children's lives, and often has irreversible consequences on their development and well-being and for their opportunities to thrive later in life. It also weakens the very foundation of social progress, generating huge costs for society, slowing economic development and eroding States' human and social capital. But through enhanced cooperation, and with serious investment in proven strategies for violence prevention, violence can become a thing of the distant past.

24. The 2030 Agenda is global and universal and has the unique potential to bring positive results to all parts of the world. But more importantly, it concerns all children. It is indeed critical to invest in children to achieve inclusive, equitable and sustainable development for present and future generations.

25. The value and success of the 2030 Agenda will be measured by the strategic action taken and tangible progress made in implementation on the ground, especially for those furthest behind, those who are the least visible and most forgotten children and who are often also the most at risk of violence, abuse and exploitation. It is therefore essential to promote the adoption and implementation of a comprehensive and cohesive nationally owned sustainable development strategy that is supported by predictable resources; informed by solid evidence and robust, reliable and disaggregated data; and reviewed through an open, inclusive and periodic assessment of progress using internationally agreed benchmarks.

26. The experience gained from 10 years of implementation of the recommendations of the United Nations study provides a solid basis to build upon. An increasing number of States have promoted awareness and social mobilization initiatives on this topic, and adopted legislation and national plans of action to prevent and respond to violence, along with mechanisms to collect and analyse data to inform planning, policy and budgetary decisions, as well as monitoring and evaluation. Translating the 2030 Agenda into national action is therefore under way, though much more needs to be done to mainstream the goals and targets into national development plans, strategies and actions that are nationally owned and to further the realization of children's rights.

27. Regional organizations and institutions have become crucial players in these efforts. Some intergovernmental regional organizations, such as the Association of Southeast Asian Nations (ASEAN) and the Council of Europe, have already adopted new regional plans on violence against children aligned with the 2030 Agenda. Others, such as the League of Arab States, the South Asia Initiative to End Violence against Children and the High-level Authorities on Human Rights of the Southern Common Market (MERCOSUR) are promoting similar efforts.

28. Such progress, however significant, needs to be further consolidated. The protection of children from violence cannot be an afterthought. The implementation of the 2030 Agenda requires strengthened partnerships and the mobilization of significant resources. Broad global alliances and partnerships uniting Governments, civil society, community and religious leaders, the private sector, international organizations and all other actors, including children themselves, are crucial to advancing this process. With this in mind, the Special Representative has strongly supported the establishment of significant initiatives, including the Global Partnership to End Violence against Children, Alliance 8.7: working together to end child labour and modern slavery, the Global Youth Partnership for the Sustainable Development Goals and the Global Alliance for Reporting Progress on Promoting Peaceful Justice and Inclusive Societies. And for this reason, in March 2016, during the thirty-first regular session of the Human Rights Council, the Special Representative launched the High Time to End Violence against Children initiative, with a wide range of partners. The initiative was launched in recognition of the transformative power of leaders from all walks of life, and the determination of people to stand up for children and widen the movement to free all children from violence.

29. In the countdown to 2030, everybody counts and everybody is needed. The High Time initiative mobilizes innovative talent and creates a space to stimulate and support positive and concrete actions designed to ensure children's protection from violence and reach the violence-related targets of the Sustainable Development Goals, especially target 16.2. United Nations actors, Governments, regional intergovernmental organizations, civil society organizations, professional networks, the private sector and individuals have signed a pledge and committed to take concrete actions to widen circles of non-violence around children's lives.

30. The High Time online portal¹³ provides information and resources to support global implementation efforts to end all forms of violence against children. This includes information on the ratification of child rights treaties, national legislation to ban all forms of violence, national strategies to prevent and respond to violence against children, data surveys to monitor progress, and child-sensitive mechanisms to address incidents of violence and assist child victims.

31. It is indeed high time to close the gap between the commitments to prevent and address violence against children and the action that can translate this goal into a reality for

¹³ See www.violenceagainstchildren.org.

all children, leaving no child behind. It is high time to genuinely address the root causes of violence and promote a culture of respect for children's rights and of zero tolerance of violence. It is high time to mobilize and ignite the passion of all those who can actively engage in the creation of circles of non-violence in children's homes, schools and communities.

32. With the implementation process of the 2030 Agenda, the world has a unique opportunity to place children's freedom from violence at the heart of the policy agenda of every nation. To achieve lasting progress, hope must replace despair and confidence must supplant distrust. Talent must be placed at the service of the violence-free society we all aspire to build. And it is imperative to move with a deep sense of urgency.

B. Leadership and accountability in achieving progress in the protection of children from violence

33. Ensuring progress towards achievement of the violence-related targets of the Sustainable Development Goals, especially target 16.2, requires strong leadership, and effective accountability and monitoring mechanisms at the national, regional and global levels. This is a particular concern of the Special Representative, who has promoted consideration of progress towards the violence-related Sustainable Development Goal targets in the reporting and monitoring processes of the treaty bodies and by the Human Rights Council, and in the voluntary national reviews of the high-level political forum on sustainable development.

34. Human rights bodies and mechanisms must be strategic players and mainstream the violence-related goals and targets into their important work. The thematic focus of the 2017 annual day of discussion of the Human Rights Council on protection of the rights of the child in the implementation of the 2030 Agenda for Sustainable Development will be a unique opportunity to further consolidate this vital process of integrating the human rights and development pillars of the new agenda.

35. As the central platform for follow-up and review of the 2030 Agenda, the high-level political forum on sustainable development is critical to ensuring that ending violence against children is at the heart of the implementation process of the Sustainable Development Goals. The theme of the forum in 2016, "Ensuring that no one is left behind", was of particular relevance for children exposed to violence. Many of these children suffer in silence, loneliness and fear, and they are too often left behind in accessing appropriate care and support services to overcome their trauma, benefiting from recovery and reintegration and developing to their full potential.

36. In his progress report prepared for the high-level political forum on sustainable development, convened under the auspices of the Economic and Social Council (E/2016/75), the Secretary-General highlighted that "various forms of violence against children are pervasive, including discipline that relies on physical punishment and psychological aggression". This topic was hardly addressed in the 22 voluntary national reviews.

37. The experience gained from the first set of voluntary national review reports for the high-level political forum will provide strategic input to future reporting, follow-up and review of the implementation of the 2030 Agenda. It is essential that future voluntary national reviews recognize that sustainable development cannot be achieved while globally, one billion children suffer violence and its devastating consequences. To achieve target 16.2 and free all children from fear, it is crucial to be able to assess progress and identify challenges. The Special Representative is determined to support these reviews and build

upon the important experience gained from national human rights monitoring and reporting processes.

38. The 2017 high-level political forum will provide an important platform to assess progress in the protection of children from violence under the theme "Eradicating poverty and promoting prosperity in a changing world". The in-depth reviews at the high-level political forum of the Sustainable Development Goals on ending poverty, ensuring healthy lives and achieving gender equality will provide a critical reflection of how far States have come in ensuring a protective environment to offset the multiple, and often interconnected, vulnerabilities faced by children. For target 16.2 and the other violence-related targets, the 2017 voluntary national reviews are an important opportunity to highlight good practices, identify challenges and lessons learned, and renew commitments and the provision of reliable resources towards ending all forms of violence against children.

39. While the follow-up and review of progress will be pursued at all levels (national, regional and global), the lynchpin of monitoring is at the national level. States are expected to promote an inclusive, transparent and integrated process, supported by sound data and evidence. Participatory national consultations can provide a space for open, constructive and innovative dialogue with all stakeholders, including children, to raise awareness of the 2030 Agenda and to mobilize support to end violence in all its forms.

40. National reviews of the Sustainable Development Goals are a crucial contribution to ensuring investment in children and building a world in which every child grows up free from violence and exploitation. The Special Representative is strongly committed to supporting the voluntary national review process, which has been high on the agenda of her field missions and informed her participation in high-level conferences and regional forums. This question was also the central theme in 2016 of her cross-regional round table, which annually brings together regional human rights bodies, organizations and institutions.

41. The identification of robust indicators on the prevalence of children's exposure to violence and its severity is another critical component of the Special Representative's advocacy efforts; this is crucial to capture the magnitude and impact of violence on children and to assess progress in the implementation of the violence-related goals, especially target 16.2. As a member of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators, she strongly advocated for the inclusion of three indicators on children's exposure to sexual, physical and emotional violence, which were later adopted by the Statistical Commission.

42. The violence-related targets in the 2030 Agenda are achievable, but measuring progress needs to be supported by sound, disaggregated data and stronger national statistical capacity, backed by effective and accountable institutions to respond to research findings. Along with the consolidation of knowledge and data on children's exposure to multiple forms of violence and access to and utilization of response and rehabilitation services, it is essential to develop better tools, methodologies and research capacities to break the silence around incidents of violence, to identify children at greatest risk, to understand the root causes of violence and to provide sound evidence of what works and can help achieve lasting change.

43. With this in mind, the Special Representative will continue to advocate for the development of data collection methodologies and tools to improve national research capacities and monitoring efforts to assess the prevalence of violence against children, and to inform policy and budgetary decisions.

44. The implementation of the 2030 Agenda requires strengthened partnerships and the mobilization of significant resources. A broad global alliance uniting Governments, civil society, community and religious leaders, the private sector, international organizations and all other actors, including children themselves, is crucial for widening social support and

promoting implementation, follow-up and review of progress. For this reason, the Special Representative will continue to support the global initiatives and partnerships noted above, including the Global Partnership to End Violence against Children.

45. The Secretary-General launched the Global Partnership to End Violence against Children in July 2016, calling on it to help realize the vision of the 2030 Agenda of a world where all children live in peace. The Special Representative serves on the board and the executive committee of the Global Partnership, and through her global advocacy role promotes the shared mission of making the world a safe place for children and ending violence against children everywhere. The Global Partnership has the potential to harness collective efforts to promote steadily growing commitment and action for a world free from violence. It seeks to enhance political will to reach the Sustainable Development Goal targets on ending violence against children, accelerate action through the implementation of key interventions and strengthen collaboration among a wide range of stakeholders.

C. Honouring the pledge to leave no child behind and to reach the furthest behind first: children on the move

46. The past few years have witnessed growing numbers of children and adolescents on the move, alone or with their families, within and across countries. In 2015, children constituted more than half of the total refugee population, and more than 100,000 asylum claims were lodged by unaccompanied or separated children. More often than not, a child's decision to leave home is an escape strategy to secure safety and protection; to reach a safe haven from political instability, conflict, natural disasters, violence and exploitation. For children on the move, especially those who travel unaccompanied or separated from their families, violence infuses daily life and is often part of a continuum. Fear and insecurity are widespread, and impunity prevails. During a recent country visit by the Special Representative, children repeatedly told her that life was unfair and that they saw their neighbourhood as a ghetto of hopelessness, lawlessness and fear.

47. Children experience horrific scenes: the killing of their parents, the rape of their sisters, the forced disappearance of their friends. They are exposed to street crime and community violence, to systematic threats and extortion, and to the harassment of gang members who mobilize support within the school or in their neighbourhood. In some cases, children are manipulated by elements of organized crime and forced to take part in criminal activity, including acting as watchers in places where drugs or arms are trafficked or where smugglers congregate. If children refuse to cooperate, they may pay a heavy price, and may even risk losing their lives. Marginalized children in communities where such activities take place are locked into a vicious cycle of exclusion, stigmatization and violence, as they come to be perceived as criminals themselves, feared by members of their communities and at times criminalized by the authorities.

48. Surrounded by such a devastating reality, children feel ready to embark on a perilous journey of uncertainty and to confront serious risks in the hope of finding a place of safety and security. Girls undertaking this journey face particularly serious risks of abuse and exploitation owing to their youth and gender. Some may be lured by traffickers with false promises of safety, an education or a future job. Others may be fleeing sexual abuse or the threat of a forced marriage; they may even have been sold into marriage by their desperate families, both to avoid the risk of rape and with the hope that the girl will acquire the citizenship of her husband.

49. More often than not, these children fail to benefit from the protection they are entitled to. They can be perceived as interlopers rather than vulnerable victims at risk who cross borders in search of a safe destination. Child migrants may lack proper documentation

or not speak the local language. For the most part, they are simply too frightened to report incidents of abuse or to speak about the trauma they have endured. They do not seek help, including medical help, for fear of a negative impact on pending decisions on their status, or out of fear of arrest or deportation.

50. Many children end up in crowded facilities, often together with adults who are not family members. They may find themselves in places with fast-track proceedings, and in fact at high risk of "fast-return proceedings" where their best interests are hardly considered. They may end up confined in airports, at port facilities or on islands; placed in detention centres, prisons or cells for military personnel; and even put in containers with no windows, at times in complete isolation.

51. Their risk of deprivation of liberty is high. Children may be detained by invoking the need to secure their protection from the risk of disappearance or trafficking, or for the purpose of family tracing or to consider the options for return to their country of origin. Detaining these children, which is never in their best interests, is an additional punishment; the desired aims can be achieved in a different way.

52. While their fate is being decided, children may endure humiliation, physical attacks and sexual abuse. In many cases, they lack access to a child protection authority, to an age- and gender-sensitive protection determination process, to legal representation, to accessible information about their rights or about ways of seeking redress for the acts of violence they may have suffered. This may explain why large numbers of children go missing from reception centres or disappear from the care of child protection facilities or immigration authorities.

53. Time and time again, children on the move experience fear, anxiety, panic, depression, sleep disorders, mental health problems, increased risk of self-harm and an aggravated sense of hopelessness, with a severe impact on their development and well-being. These children have been left very far behind. For them, the ambitious vision of the 2030 Agenda seems distant and illusory.

54. For children on the move, as for any other child who is left behind, we need to transform the continuum of violence that shapes their life into a continuum of protection of their fundamental rights. The world must address these desperate situations urgently. Children's freedom from violence is an ethical and a legal imperative and should not be met with indifference or complacency. It is crucial to strengthen and effectively resource child protection institutions to which children on the move can be referred, and to implement the existing standards and develop adequate monitoring tools to safeguard children's care and safety, to promote durable solutions, to rapidly identify and address risks and to fight impunity.

55. The Convention on the Rights of the Child and its Optional Protocols, together with other international standards, including the New York Declaration for Refugees and Migrants,¹⁴ provide clear guidance on upholding children's rights and preventing and eliminating the risks of violence in the lives of children on the move. Firstly, these standards recognize the imperative to act and to ensure without discrimination the realization of the rights of all children who fall under the jurisdiction of the State. This includes asylum-seeking, refugee, migrant and stateless children, and, in this context, we should recall that a child is born stateless every 10 minutes.

56. Secondly, international standards require the best interests of the child to be a primary consideration in all decisions affecting the child and at all times; upon arrival in a destination country, during relevant proceedings, or when the possibility of return is

¹⁴ General Assembly resolution 71/1.

envisaged. It is crucial to ensure safe, dignified and child-sensitive age-assessment procedures, and in any case of doubt to provide the special protection every child is entitled to. The same principles should apply when the child's legal status is being established or when a request for family reunification is considered. The appointment of a legal guardian is essential to provide support and to defend the child's best interests at every point.

57. Thirdly — and as reiterated in the New York Declaration — the responsibility for the care of children on the move needs to be promptly entrusted to national child protection authorities, rather than left to border or security officials. To be effective, child protection systems dealing with children on the move need to be cohesive and well resourced, with quality services and well-trained staff having the skills to meaningfully interview and communicate with children, understand risks and promote resilience.

58. Inter-agency collaboration among all relevant government departments is essential in this regard, but it is equally important to ensure effective cross-border and regional cooperation, promoting synergies to mobilize support and resources to address the many challenges affecting children on the move and to promote durable solutions and a continuity of care, including to ensure their empowerment, social inclusion and resumption of an independent life and to prevent the risks of revictimization, violence, or any other violation of their rights.

59. Moreover, all incidents of violence against children on the move must be exposed. Children need to feel respected, cherished and supported in their development and well-being. They have the right to feel safe and protected from fear, abuse and exploitation. Impunity needs to end. And sound data and evidence need to be consolidated to inform decisions on violence prevention, early warning and response; to help enhance the skills of professionals and the capacity of institutions; and to sustain and monitor progress and evaluate the impact of interventions. Careful, ethical and participatory evaluation and research involving the children concerned are a crucial dimension of this process.

60. Children's rights are universal, inalienable and interrelated. The right to freedom from violence everywhere and at all times; the right to respect for family unity and to special protection when separated from their families; the right to have any request for family reunification considered in a positive, humane and expeditious manner; and the rights to a legal identity, to liberty and security and to effective alternatives to deprivation of liberty are inherent in the human dignity of every child. Children on the move are entitled to nothing less.

61. But for human rights to be meaningfully enjoyed, it is indispensable to ensure that children on the move have access to child-friendly information and counselling; to justice; and to genuine participation in safe, child- and gender-sensitive procedures and mechanisms, including to seek redress for incidents of violence or to challenge the legality of their deprivation of liberty.

62. In brief, we urgently need to stand up for children on the move and secure their protection because, first and foremost, they are children.

IV. Strengthening regional processes to enhance the protection of children from violence

63. Cooperation with regional organizations and institutions has been a cornerstone of the Special Representative's strategy to accelerate progress in the protection of children from violence. Indeed, regional organizations and institutions are strategic allies in violence-prevention and -elimination initiatives and their institutionalized cooperation with the Special Representative has helped place violence against children at the heart of the

regional policy agenda, enhance the accountability of States and support national implementation efforts.

64. As part of this process, eight high-level regional consultations have been held in the South and Central American, Caribbean, South Asian, Pacific, European and Arab regions; six regional monitoring reports have been issued and periodic review meetings held to assess and accelerate progress. Moreover, six cross-regional round tables have been hosted to enhance cooperation and consolidate progress towards children's freedom from violence.

65. As a result, regional commitments have been strengthened and are currently being aligned with the 2030 Agenda for Sustainable Development through the adoption of new regional plans on violence against children. In turn, these efforts have translated into the strengthening of national legal standards and public policies, the consolidation of research and monitoring tools, and the promotion of campaigns to support, stimulate and monitor progress in the protection of children from violence.

66. To consolidate this cooperation and accelerate progress in freeing children from violence, the Special Representative organizes an annual high-level round table with regional organizations and institutions. This forum has become a strategic mechanism within the United Nations to engage in policy dialogue, share knowledge and good practices, promote cross-fertilization of experiences, coordinate action and enhance synergies, identify trends and pressing challenges, and join forces to prevent violence and strengthen children's safety and their protection.

67. In May 2016, the Special Representative co-hosted, with the Council of the Baltic Sea States, the sixth annual cross-regional round table, held in Stockholm. The meeting addressed the role of regional organizations and institutions in supporting implementation of the 2030 Agenda and mobilizing efforts to reach target 16.2 and the other violence-related Sustainable Development Goal targets. It provided a platform for sharing experiences in the development of regional strategies aligned with the 2030 Agenda and future actions foreseen. Attention was paid to strategies to support the mainstreaming of the violence-related targets in national and subnational plans and the development, where appropriate, of regional and national goals and targets. The role of regional organizations and institutions in mobilizing their member States to address violence against children in their voluntary national reviews for the high-level political forum on sustainable development was also stressed, as was cooperation with other regional entities in review processes. Support to peer learning and participatory processes of national assessment of progress was encouraged through this strategic cross-regional forum and other platforms.

68. A number of regions have already promoted significant initiatives to spearhead this work. This has been particularly evident in the incorporation of violence against children into regional action plans and their explicit alignment with the 2030 Agenda.

69. During the 2016 cross-regional round table, regional organizations and institutions, recognizing the strategic opportunity presented by the 2030 Agenda and the tenth anniversary of the United Nations study on violence against children, expressed a strong commitment to further accelerate and assess progress in eliminating violence against children and to reinforce cooperation. Strategic actions envisaged included support to the further development and implementation of regional plans on violence against children aligned with the 2030 Agenda; mobilizing partnerships and strengthening implementation of comprehensive national strategies for violence prevention and elimination; enacting and enforcing national legislation to ban all forms of violence against children; and enhancing data systems and supporting the follow-up and review process of the 2030 Agenda through strong accountability mechanisms at the national and regional levels.

70. As highlighted below, within individual regions significant developments have also been promoted and concrete results achieved to advance these goals.

71. In Africa, on the occasion of the commemoration by the African Committee of Experts on the Rights and Welfare of the Child of the twenty-fifth anniversary of the African Charter on the Rights and Welfare of the Child, the Special Representative, together with UNICEF and the African Child Policy Forum, presented a review of regional progress on the implementation of the recommendations of the United Nations study. The conference highlighted progress, challenges and opportunities to promote freedom from violence as part of wider efforts to achieve the African Union Agenda 2063 and the vision of building an Africa fit for its children. The outcomes of the discussion informed the development of Africa's Agenda for Children 2040, formally adopted in November 2016, one of whose core goals is ending violence against children.

72. These developments provide significant impetus for the implementation of the 2030 Agenda in the African region. Africa's Agenda for Children 2040 contains measurable goals and priority areas which the African Union and its member States commit to reach by 2040, and there are significant achievements to build upon.

73. Indeed, a number of countries in Africa are strengthening their national child protection systems and have undertaken comprehensive household surveys to document the magnitude, nature and impact of violence in childhood. Information from these surveys has supported government advocacy, policy, planning and budgeting as well as the enactment of legislation, including with a view to combating child marriage. Seven countries in Africa have completed surveys (Kenya, Malawi, Nigeria, Swaziland, the United Republic of Tanzania, Zambia and Zimbabwe), while others are pursuing similar efforts, including Botswana, Côte d'Ivoire, Mozambique, Rwanda and Uganda.

74. In February 2016, the Special Representative supported the launch of the results of the survey in Nigeria, conducted by the Government in cooperation with UNICEF and the Together for Girls partnership.¹⁵ Nigeria was the first country in West Africa to conduct a national survey on such a large scale. In response to its findings, the Year of Action to End Violence against Children was launched, along with a call to action to federal and state ministries and agencies, non-governmental organizations, faith-based organizations, the media, communities, parents and children to join together to prevent and respond to violence against children. As a key contribution to this process, the Special Representative participated in the launch of the campaign and policy agenda to end violence against children in Lagos State; Cross River State launched its campaign to end violence against children on 16 June 2016, the second state in Nigeria to respond to the call to action.¹⁶

75. In October 2016, in Malawi, the Special Representative promoted the further implementation of the policy agenda launched during her previous visit undertaken in response to the findings of the 2015 violence against children survey. During the follow-up visit, she paid special attention to the prevention and abandonment of harmful practices, helping to focus national attention on the prevalence of child marriage, abuse associated with sexual initiation ceremonies, attacks against children with albinism and other practices compromising the rights of children, particularly girls.

76. There has been progress on these issues in Malawi, including the adoption in 2015 of the Marriage, Divorce and Family Relations Act, which increased the minimum age of marriage to 18 years; the Government's commitment, in November 2016, to align the Constitution with that legislation and the African Charter on the Rights and Welfare of the Child;¹⁷ and the crucial role played by traditional leaders in mobilizing their communities to

¹⁵ See http://srs.g.violenceagainatchildren.org/story/2016-02-25_1431.

¹⁶ See www.unicef.org/nigeria/media_10405.html.

¹⁷ See www.constitutionnet.org/news/malawi-amend-constitution-regarding-age-child.

prevent the early and forced marriage of girls and to ensure their return to school to pursue their education.

77. Harmful practices such as these figured prominently at the Seventh International Policy Conference on the African Child, hosted by the African Child Policy Forum in Addis Ababa in November 2016. The conference highlighted the often fatal forms of violence affecting in particular marginalized and vulnerable children, including cases of infanticide, and attacks on children with albinism or those accused of witchcraft. With a solutions-oriented approach, the conference adopted a call to action to protect all children from violence, promote the implementation of policies and laws and mobilize for dialogue at all levels.¹⁸

78. The conference built on the successful discussions held in September 2016 during the launch of the African Partnership to End Violence against Children,¹⁹ of which the Special Representative is a member. The Partnership was established to advance collective efforts to comprehensively address all forms of violence against children across the continent. It aims to facilitate the uptake of Africa's Agenda for Children 2040 and the violence-related targets of the 2030 Agenda through collective programming and knowledge-building and -sharing.

79. The Special Representative will continue to enhance her collaboration with the African Union and support further efforts to advance the implementation of its Campaign to End Child Marriage. Significant progress has been made in this regard, including the recent adoption by the Government of Burkina Faso of a comprehensive national strategy on ending child marriage 2016-2025,²⁰ and the joining of the campaign by the Governments of Cameroon, Liberia and Nigeria. Eighteen African countries have launched the Campaign and in November 2016, the Heads of State and Government of francophone countries adopted a resolution reaffirming their commitment to end all forms of violence against children, including such practices as child, early and forced marriages, and to advance the 2030 Agenda.²¹

80. While many challenges remain, the African continent has unique opportunities to build upon in 2017, including during the celebration of the Day of the African Child, which will be devoted to the theme "The Sustainable Development Goals for children in Africa: accelerating protection, empowerment and equal opportunity".

81. In Latin America, the Special Representative joined the session of the MERCOSUR Permanent Commission of the Niñ@Sur Initiative devoted to the protection of children from violence and the implementation of the 2030 Agenda. Member States welcomed the High Time to End Violence against Children initiative, which is being mainstreamed into the regional strategy of follow-up to the United Nations study recommendations, and they reiterated the urgency of investing in violence prevention, including by addressing its root causes and overcoming attitudes and behaviour that condoned violence against children.

82. In the context of her collaboration with the MERCOSUR Permanent Commission of the Niñ@Sur Initiative and the Global Movement for Children, Latin America and the Caribbean section, the Special Representative organized with the Government of Uruguay a regional consultation with children on bullying and cyberbullying. Held in May in Montevideo, the consultation included young participants from Argentina, Bolivia, Chile,

¹⁸ See www.africanchildinfo.net/ipc/files/SeventhIPC-Call-toAction.pdf.

¹⁹ See http://africanchildforum.org/en/index.php/en/?option=com_content&view=article&id=400&Itemid=364.

²⁰ See www.girlsnotbrides.org/resource-centre/national-action-plan-end-child-marriage-burkina-faso/.

²¹ See www.francophonie.org/IMG/pdf/som_xvi_decl_antananarivo.pdf.

Colombia, Ecuador, El Salvador, Honduras, Paraguay, Peru and Uruguay and provided a platform for young people to make recommendations for the Secretary-General's report on children's protection from bullying and cyberbullying (see A/71/213, para. 27).

83. Children reflected on their perceptions and experience of bullying and cyberbullying, discussed the root causes and identified strategic measures for prevention and response. They highlighted that bullying was often part of a painful continuum of children's exposure to violence and recognized the particular challenges faced at school, on the way to school and online. The children at the consultation were clear in their call:

Listen to our voice; bullying hurts and it lasts ... urgent action is needed to stop it; violence does not teach good behaviour, being a good model and promoting non-violence conveys a good example for our lives; use dialogue and mediation before you let violence occur! Help us learn about prevention and our rights; help those who care for us so that they can help us better; and don't forget: legislation is important and everyone needs to know it and respect it.

84. In November 2015, the twenty-seventh ASEAN Summit adopted the ASEAN Regional Plan of Action on the Elimination of Violence against Children. The Special Representative has been actively promoting its implementation, in collaboration with ASEAN member States, the ASEAN Secretariat and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children.

85. The Regional Plan of Action is framed by the 2030 Agenda and provides a powerful example of how regional cooperation can support national action on the protection of children from violence and advance progress to achieve the violence-related Sustainable Development Goal targets. It proposes concrete actions within a realistic time frame, including the promotion of non-violent approaches to child discipline; the deinstitutionalization of children; the protection of children from online abuse; the promotion of child-friendly justice proceedings, the prevention of deprivation of liberty of children and the promotion of alternatives to detention; and awareness-raising campaigns to break through the invisibility of violence and secure the protection of child victims.

86. During the Special Representative's mission to East Asia in June 2016, she met in Bangkok with the East Asia Regional Inter-Agency Child Protection Working Group, composed of United Nations agencies and civil society organizations, to encourage them to use the strategic opportunity of the Regional Plan of Action and the violence-related Sustainable Development Goal targets to accelerate progress in national-level action.

87. On the same occasion, she participated in a meeting hosted by the Government of Viet Nam with senior officials of ministries of social welfare and development of ASEAN countries and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, which will conduct an annual review of implementation of the Regional Plan of Action on the basis of reporting by member States. The meeting helped to further advance national implementation of the Regional Plan of Action and build upon the High Time to End Violence against Children initiative in raising awareness and spurring action towards ending violence against children in ASEAN member States.

88. As part of her commitment to strengthening child participation and engagement with children around the world, the Special Representative was a keynote speaker at the fourth ASEAN Children's Forum, also hosted by the Government of Viet Nam. The Forum provided a platform for children from across ASEAN countries to reflect together on key concerns facing children and young people in the region and to propose recommendations to strengthen the protection of children from violence, to secure online safety and to fight trafficking. In the open debate held between the child representatives, representatives of the ASEAN Commission and the Special Representative, the young participants called for

urgent measures to address emerging threats posed by online abuse and cyberbullying and reaffirmed their decisive role as agents of change in bringing an end to violence.

89. In March 2016, the Special Representative participated as a keynote speaker in the high-level meeting of the South Asia Initiative to End Violence against Children to review progress made and discuss the implementation of the 2030 Agenda in the region. Significant progress has been achieved during the past 10 years in the institutionalization of the Initiative and in national action to advance implementation of the recommendations of the United Nations study. Building upon this process, participants highlighted the unique momentum provided by the implementation of the 2030 Agenda to further strengthen the protection of children and to inform the Initiative's new five-year plan. Regional priorities, such as ending sexual exploitation and abuse of children; child labour; and harmful practices, including child marriage, corporal punishment and violence in schools, provide a sound basis for aligning regional and country-level action with the implementation of the 2030 Agenda and achievement of the violence-related Sustainable Development Goal targets.

90. These important conclusions were endorsed by the Fourth Ministerial Meeting of the South Asia Initiative to End Violence against Children, hosted by the Government of India, which reiterated the important role of the Initiative in promoting progress in the preventing violence against children agenda in South Asia.

91. In July 2016, at an event hosted by the Government of Bhutan, the South Asia Initiative to End Violence against Children and ILO launched Alliance 8.7: working together to end child labour and modern slavery, to further reinforce the collective efforts to move the 2030 Agenda forward in South Asia. The Initiative's regional action plan to prevent and eliminate child labour and a review of the engagement of the faith and interfaith actors in ending violence against children in South Asia were also launched on that occasion.

92. The Special Representative's collaboration with the Council of Europe has been crucial in strengthening children's freedom from violence across Europe. The Council has been a driver of regional initiatives to promote the implementation of the recommendations of the United Nations study and support the Special Representative's mandate.

93. In April 2016, in Sofia, the Council launched its new Strategy for the Rights of the Child (2016-2021), which was developed with the participation of the Special Representative. Children's freedom from violence is at the heart of the Strategy and is mainstreamed in actions concerning the protection of children from online abuse; the promotion of child participation; the development of child-friendly justice; the prevention of deprivation of liberty and the promotion of diversion measures; and the protection of children on the move.

94. The Strategy is designed to support implementation of the 2030 Agenda and offers important opportunities to further strengthen the Special Representative's cooperation with the Council of Europe and to enhance support to its member States in their efforts to implement the Sustainable Development Goal targets and accelerate progress towards target 16.2. This includes supporting the enactment of legislation to ban all forms of violence and establish child-friendly counselling, reporting and complaint mechanisms to address incidents of violence; the development of integrated national strategies on the protection of children from violence; the identification of strategic indicators to monitor progress towards target 16.2; the safeguarding of the rights of children on the move and their protection from violence; and supporting the Council of Europe in its role as a clearing house of sound data and experiences, and as a platform for peer support among Governments.

V. Looking ahead

95. In 2006, the United Nations study on violence against children confronted the international community with the extent, pervasiveness, complexity and impact of violence against children. The mobilization generated by the study and the process of implementation of its recommendations around the world have led to important progress, and States are now better equipped to prevent, eliminate and respond to violence.

96. The mandate of the Special Representative draws attention to both the worst and the best aspects of humankind. The worst is that countless children are exposed to violence that is often concealed but nevertheless pervasive. Children are intentionally targeted in politically driven processes, manipulated in organized crime, obliged to flee violence in their communities, sold and exploited for economic gain, groomed online, disciplined through violent means, sexually assaulted in the privacy of their homes, neglected in institutions, abused in detention centres, bullied in schools, and stigmatized and ill-treated as a result of superstition or harmful practices. Every five minutes, a child dies as a result of violence.

97. Children's exposure to pervasive violence is well documented by United Nations reports, academic evidence and children's own heartbreaking stories. For millions of children around the world, life is defined by two words: fear and pain. For those children, the world has no safe haven. And States are missing the chance to build a better world for all of them.

98. Violence compromises all children's rights. It goes hand in hand with deprivation and high risks of poor health, poor school performance and long-term welfare dependency. In early childhood, the impact of violence is often irreversible. As children grow, cumulative exposure to manifestations of violence becomes a bleak continuum, spreading across children's life cycle and, at times, persisting across generations.

99. But beyond the impact on individual victims and their families, violence is associated with far-reaching costs for society. It diverts billions of dollars from social spending, slowing economic development and eroding States' human and social capital.

100. The mandate of the Special Representative also honours the best of humankind; this comes, not surprisingly, from children themselves. Time and time again, the Special Representative has met children who have emerged from the most terrible nightmares and who yet remain resilient, confident, generous and eager to show the way ahead. In all regions of the world, young advocates join hands with national authorities, civil society and many other allies in raising awareness about the detrimental impact of violence, empowering young people to be the first line of protection from abuse and exploitation, and inspiring many others to build a world where children can grow up respected, nurtured and supported to achieve their ambitions and dreams. Even in the most desperate of situations, children demonstrate hope for a better world and determination to achieve lasting change. This is much more than positive thinking; this is about achieving positive change.

101. Since the adoption of the Convention on the Rights of the Child in 1989, the world has made tremendous strides towards the realization of children's rights. But the vision of the Convention will not be fully realized unless children's rights become one of the sustaining pillars of society and are embraced as a core value of the dialogue between generations.

102. Recent estimates show that at least one billion children are victims of violence every year. Clearly, much more needs to be done. It is high time to close the gap between international standards, political commitments and action. It is high time to promote a culture of respect for children's rights and of zero tolerance for violence.

103. Ten years after the launching of the United Nations study, the implementation of the 2030 Agenda for Sustainable Development provides a unique opportunity to renew commitments and reinvigorate action to end violence against children. For the very first time, the dignity of children and their right to live free from violence and from fear are recognized as a distinct priority on the international development agenda. The inclusion of target 16.2 to eliminate by 2030 all forms of violence against children was a breakthrough; the international community must now act to transform this momentum into an unstoppable movement towards a world free from fear and from violence for all children.

104. Guided by the human rights imperative of freeing children from violence, by the evidence gathered in recent years and by the ambitious vision and historic opportunity offered by the 2030 Agenda to promote a quantum leap in violence prevention and response efforts, the Special Representative reaffirms her resolve to mobilize even greater support and action towards a world free from violence against children, in close collaboration with Member States and all other stakeholders, most especially children themselves.

105. In the countdown to 2030, everybody counts. Every world citizen can be an agent of change. And this can inspire others to work to bring about the change we need. Joining hands together, the sum of all forces will be zero: zero violence.



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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Human rights bodies and mechanisms

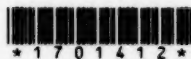
First session of the Forum on Human Rights, Democracy and the Rule of Law

Report of the Co-Chairs

Summary

In accordance with Human Rights Council resolution 28/14, the first session of the Forum on Human Rights, Democracy and the Rule of Law was held in Geneva from 21 to 22 November 2016 with the theme "Widening the democratic space: the role of youth in public decision-making". The present report contains a summary of the discussions, conclusions and recommendations of the Forum.

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I. Introduction

1. In its resolution 28/14, the Human Rights Council decided to establish a forum on human rights, democracy and rule of law to provide a platform for promoting dialogue and cooperation on issues pertaining to the relationship between these areas and to identify and analyse best practices, challenges and opportunities for States in their efforts to secure respect for human rights, democracy and the rule of law.

2. The first session of the Forum was held on 21 and 22 November 2016 in Geneva with the theme "Widening the democratic space: the role of youth in public decision-making".

3. In accordance with resolution 28/14, the President of the Human Rights Council appointed Daniyar Mukashev, Permanent Representative of Kyrgyzstan to the United Nations Office at Geneva, and Ahmad Alhendawi, Envoy of the Secretary General on Youth, as Co-Chairs.

4. At its first meeting, the agenda, as contained in the annotated provisional agenda (A/HRC/FD/2016/1) prepared under the guidance of the Co-Chairs with inputs from relevant stakeholders, was adopted. The present report was prepared by the Co-Chairs and contains a summary of the discussions at and the recommendations adopted by the Forum.

5. More than 600 participants attended the Forum, including representatives of Member States, United Nations bodies and specialized agencies, regional and intergovernmental organizations, national human rights institutions and non-governmental organizations, including youth advocates and representatives of youth organizations from all regions. The final list of participants is available from www.ohchr.org/democracyforum.

II. Opening of the Forum on Human Rights, Democracy and the Rule of Law

6. In his opening remarks, the President of the Human Rights Council noted that strengthening youth participation in public affairs should be a core objective for any society aspiring to build inclusive and democratic institutions that respected human rights. Noting the role of the Council in drawing international attention to the obstacles faced by young people around the world in the exercise of their right to meaningfully and effectively participate in public decision-making, he acknowledged that more must be done to mainstream the rights of young people in the work of human rights mechanisms, including the Council and its universal periodic review process. Citing the Secretary-General's statement on the occasion of the 2016 International Youth Day, the President recalled that the world's young people, who made up the largest generation of youth in history, could lead a global drive to break the patterns of the past and set the world on course to a more sustainable future. Furthermore, he called for the empowerment of young people to lead societies and contribute to finding solutions to the many challenges ahead.

7. The Deputy Secretary-General, in a video message, stated that all stakeholders should work not only for young people, but also with them. He stressed that respect for human rights, including the rights to non-discrimination, freedom of expression and freedom of peaceful assembly, and the rule of law were essential to the claims of younger generations. The adoption by the Security Council of resolution 2250 (2015) on youth, peace and security constituted a historic step towards recognizing the need for youth to take an active role in making and building peace. Widening the democratic space helped to promote socioeconomic opportunities for all and was essential to build accountable and

accessible institutions that functioned fairly and impartially. In that regard, he recalled the role of young people as key to achieving the Sustainable Development Goals, including goal 16, to promote peaceful and inclusive societies, access to justice for all and effective, inclusive and accountable institutions at all levels, leaving no one behind.

8. The United Nations High Commissioner for Human Rights recalled that honest, effective, democratically operated and responsive Governments was one of the top priorities for today's younger generation. He stressed that a society that did not fully respect everyone's equal right to participate was fundamentally unsound. He emphasized the importance of the protection of fundamental rights, such as the right to freedom of opinion and expression, to ensure that State institutions were accountable and grounded in service to the people. He regretted that younger generations were not adequately represented in political institutions such as parliaments and in political parties and public administrations, thereby fuelling disenfranchisement and distrust in formal structures, electoral processes, leaders and policymakers. The High Commissioner stressed the need to help young people regain trust in formal structures and to remove barriers to their meaningful participation. He further called for concrete action in response to youth's concerns, and emphasized that the contribution of young people was vital to providing an adequate response to current challenges; they needed to stand up for others, be the voice for the common good, and act to support inclusion, equality and human dignity for years to come.

9. Mr. Alhendawi invited participants to reflect on how young people understood democracy today and why the most engaged generation in history was not given adequate access to politics and policymaking. Politicians tended not to prioritize the issues that mattered to youth, as young people were trapped in a vicious cycle of political marginalization; large proportions of the young did not vote, while the majority of people over the age of 65 did. That contributed to young people's withdrawal from a system that often did not represent them, leading to even greater levels of distrust, and even lower voter turnouts. Legal and other barriers faced by young people in running for public office represented a major obstacle to the promotion of youth participation, particularly in the political process. He urged that the narrative with regard to young people be changed to address youth "rights" rather than youth "issues"; that would address those concerns more accurately and acknowledge the related human rights obligations to be fulfilled by duty bearers. He also reflected on the recent advances made in the relevant normative framework, such as Human Rights Council resolution 32/1 on youth and human rights, Security Council resolution 2250 (2015), the importance of youth rights as a cross-cutting issue in the 2030 Agenda for Sustainable Development and youth-related commitments made in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development. He expressed the hope that the Forum, the first United Nations meeting to focus on widening the democratic space by strengthening youth participation, would offer an opportunity for frank discussions and would result in concrete recommendations to support the international community in advancing young people's rights worldwide.

10. Mr. Mukashev emphasized that the skills, energy and ideals of young people were vital for strengthening democratic institutions and building inclusive societies without discrimination. He stressed the importance of protecting and respecting human rights and creating a conducive environment to allow youth to thrive and develop their potential, contribute to strengthening democratic institutions and build inclusive societies. He reminded government representatives of their role in mobilizing resources and ensuring that young people's issues received specific institutional attention, and welcomed the increase in recent years in the number of policies focusing on youth and the establishment of dedicated youth structures at the national level. Such policies and structures contributed to creating the conditions for increased participation of youth in public life, including in shaping the 2030 Agenda, and in the work of international organizations, including through

participation in Member States' delegations to the United Nations. Finally, Mr. Mukashev congratulated the members of the Human Rights Council on their decision to establish the Forum and stressed the importance of the recognition by the Council of the crucial role played by youth in widening the democratic space, protecting and promoting human rights and strengthening the rule of law.

III. Creating an enabling environment for the effective participation of youth in public decision-making

A. Discussion

11. The discussion on agenda item 2 was moderated by Romulo Dantas, Executive Secretary for Youth Empowerment of the World Young Men's Christian Association. The panellists were Sara Oviedo, member of the Committee on the Rights of the Child; Chaeli Mycroft, ability activist, founding member of KidsRights Youngsters and founder of the Chaeli Campaign; Gulalai Ismail, peace activist and founder of Aware Girls; and Dejan Bojanic, member of the board of the European Youth Forum. The discussions focused on the legal and institutional framework required to enable youth to contribute to the formulation of public policies and to hold policymakers accountable, and on the realization of all human rights without discrimination as a prerequisite to an enabling environment for the participation of youth in decision-making.

12. Ms. Oviedo noted the importance of an adequate legal framework, including at the international level, that specifically recognized youth as rights holders and ensured the promotion and protection of all civil, cultural, economic, political and social rights as a precondition for the participation of youth in public decision-making. She recalled the invaluable role played by youth for the promotion and protection of human rights and the rule of law in many countries. While acknowledging positive legislative developments in some countries, which had provided for a lower voting age, Ms. Oviedo noted the generalized lack of political will for the creation of mechanisms for the sustainable, effective and meaningful participation of youth in all decisions in which they had a direct interest. She stressed that such mechanisms contributed to ensuring that States complied with their human rights obligations, and ultimately to strengthening democracy and the rule of law. Ms. Oviedo also regretted that existing consultative mechanisms did not ensure that the views of youth were systematically and effectively taken into account in law- and policymaking as well as in accountability processes. She also emphasized the generalized need for more accurate research and data on the violations of human rights of youth as a necessary tool for assessing existing gaps in the effective implementation of their right to participate.

13. Ms. Mycroft discussed the importance of tackling disability as a cross-cutting issue rather than in isolation, particularly in the light of the systemic discrimination suffered by young people with disabilities in all spheres of life. Acknowledging and understanding the impact of discrimination on many young people with disabilities and their families represented a first, necessary step towards addressing the issue. She recalled that discrimination often stemmed from stigma and was grounded in false assumptions about the capability of youth with disabilities to contribute to public life, thus ignoring their potential to contribute to the community. She regretted the use of such negative terminology as "economic burden", "health hazards" and "social disempowerment". Education on disability and human rights played a critical role in addressing discrimination and eradicating stigma. She underlined the importance of eliminating all forms of discrimination and ensuring that all members of the society were given the opportunity to contribute and realize their potential. Finally, she stressed the need to strive for full

inclusion and to ensure that all voices were heard and considered when decisions were being made in order to maximize the participation of people with disabilities at all levels; that would represent a true understanding of democracy as well as recognition that every person had a unique and valuable contribution to make to society.

14. Ms. Ismail spoke about the importance of empowering young women to increase their access to decision-making processes and structures and ultimately to build more democratic, inclusive societies that respected the rule of law and human rights. The empowerment of young women was beneficial for the community as a whole because when young women were empowered, they were able to defend their rights, including the right to access information; that in turn fostered inclusive political and decision-making processes. Women's marginal role in society, including in decision-making, was the result of a number of structural barriers, including a systematic denial of socioeconomic opportunities and limited autonomy and decision-making power within patriarchal social systems, as well as restrictive social norms and gender stereotypes. Such structural barriers, combined with discrimination based on age, heavily restricted young women's right to participate in democratic decision-making. In that context, she shared her experience with Aware Girls in increasing young women's effective political participation by adopting a holistic approach that included wide-ranging capacity-building and mentoring programmes aimed at providing resources to initiatives led by young women and linking those initiatives to policymaking processes, political parties and decision makers. She also stressed the importance of engaging with communities and their leaders to bring about a shift in the norms and values that restricted women's access to decision-making.

15. Mr. Ibojanic recalled that human rights were interdependent and interrelated and that the capacity of young people to participate in decision-making was largely dependent on the extent to which all their civil, political, economic, social and cultural rights were realized. He stressed the importance of the right to free, equally accessible and quality education for the development of autonomous, supportive, responsible and committed young citizens. He recalled that Member States were the duty bearers for all human rights and therefore were responsible for the fulfilment of the right to education. Quality education for young people depended fully on how well Governments designed their education systems. Education curricula were often outdated or designed to meet market demands, while quality education had the potential to equip individuals with the necessary knowledge, skills and understanding to exercise and defend their rights and responsibilities in society, as well as to internalize democratic values. Youth organizations offered an opportunity to foster active citizenship, including by bringing young people of different backgrounds together to work with and learn from each other. Participation was intrinsic to the culture of youth organizations that were youth-led and democratic. By engaging with them, young people were able to develop civic and political competences, thereby fostering a culture of active participation and responsibility from within.

16. In the ensuing discussion, participants recalled that youth were an essential resource for community development and positive social change. They called on States to abide by their legal obligations under international human rights law and to display strong political will to reduce exclusion and ensure accountability for the implementation of youth rights without discrimination, particularly for the most excluded and marginalized young people, such as women and girls, youth with disabilities, indigenous youth, youth belonging to minorities and migrant youth. Addressing the multifaceted challenges faced by youth in exercising their right to participate called for an integrated and comprehensive approach to the promotion and protection of the human rights of youth. In that regard, the right to inclusive, affordable and quality education and the empowerment of young people should lie at the heart of any efforts towards addressing those challenges.

17. Both panellists and participants repeatedly stated that there were gaps in the protection of the human rights of young people in all regions, who experienced violations of their rights merely because they were young. The enjoyment of economic and social rights and the right to information for the most marginalized youth were essential elements of political empowerment and the ability to take part in public decision-making.

18. Participants put particular emphasis on the importance of the Convention on the Rights of Persons with Disabilities, as it represented a profound paradigm shift in the approach to disability whereby persons with disabilities, including youth, were not "objects" to be cared for, but rather "subjects" who enjoyed human rights on an equal basis with others, including the fundamental right to participate in public affairs.

19. The critical role of young human rights defenders in the promotion and protection of human rights and in advocating so that States complied with their obligations with regard to ensuring accountability for human rights violations was emphasized. In the face of a shrinking democratic space, participants referred to increasing reports of attacks directed at youths who stood up against human rights violations, and stressed the need for mechanisms to protect young human rights defenders and ensure accountability when their rights were violated.

20. Responding to some of the questions regarding how youth and youth organizations should strategically engage with other sectors of society, panellists noted that collaborative approaches were required to "deconstruct the dynamics of power" and to challenge the false assumptions around the lack of capability of youth to participate. In that regard, it was suggested that the youth movement had much to learn from the women's rights movement.

B. Recommendations

21. A gender-sensitive approach to the implementation of laws, programmes and measures relating to young people is imperative, given that at all levels of public decision-making, in virtually all countries, young women and girls may be exposed to multiple and intersecting forms of discrimination that prevents them from the full, effective and equal enjoyment of the right to participate in public affairs.

22. States should promote the full realization of all human rights, in particular the rights to the freedoms of opinion and expression, association and peaceful assembly, as a prerequisite to the effective enjoyment by youth of the right to participate in public affairs.

23. States should adopt specific measures to ensure that young people participate without discrimination in the design, implementation and evaluation of any laws, regulations, policies, programmes or strategies affecting their rights. In this context, particular attention should be given to the direct participation of youth with disabilities in the drafting of laws and policies affecting their human rights, in line with the Convention on the Rights of Persons with Disabilities.

24. States should take all appropriate measures to ensure the full exercise by young women and girls of their right to participate in public affairs. To this end, they should implement empowerment programmes and remove structural barriers to the exercise by women and girls of their right to participation in formal and informal decision-making processes. This entails, *inter alia*, the adoption of measures promoting the engagement and collaboration of all relevant stakeholders, including grass-roots community and religious leaders, to bring about a shift in the norms and values that restrict women's access to decision-making processes. This also requires allocating adequate resources to initiatives led by young women.

25. States should create structures and adopt measures for the regular, effective and meaningful participation of youth in all established national mechanisms for reporting and follow-up on the implementation of State obligations under international human rights law.

26. Efforts to ensure full and effective participation of youth in public affairs should be combined with the promotion and protection of the right to equality and non-discrimination in national legislation, policies and practice. In this context, States should conduct more research and collect disaggregated data on the actual status of youth rights and their protection at the national level, with a view to exposing and assessing the extent of violations suffered by young people, including discrimination.

27. States should take all necessary measures to ensure the full realization of the rights of young human rights defenders, in particular their right to promote and strive for the protection and realization of human rights. They should take effective measures to protect young human rights defenders and youth organizations against any violence, threats, intimidation, discrimination, pressure, reprisals or any other arbitrary action, including abuses by non-State actors. States should exercise due diligence in preventing violations and abuses against women human rights defenders, who face particular risks, including gender-specific violations, and in combating impunity by ensuring that those responsible for violations and abuses, including gender-based threats and violence, are promptly brought to justice through impartial investigations.

28. States should ensure that all measures to protect the right to education and the regulatory framework for public and private education systems are grounded in the principles of equality and non-discrimination. In this regard, States should eliminate all legislative, physical, financial and cultural barriers preventing children and youth from accessing quality education, including by strengthening efforts to ensure that mainstream education systems become more inclusive of children with disabilities and by adopting effective programmes in the fields of teaching, education, culture and information, with a view to promoting an environment that values diversity and the right of all young people to participate in society.

29. States should include human rights and citizenship education, including media literacy, in the curricula at all levels of general and vocational education and training. States should ensure the effective participation of youth in the design of citizenship education and human rights curricula and in their regular review to ensure their relevance to the needs of young people. Concrete targets and benchmarks should be set for the evaluation of citizenship and human rights programmes to measure and increase their effectiveness.

30. States should provide teachers, trainers and youth leaders with the necessary initial and continuing training in citizenship education and human rights. States should also support non-governmental organizations, in particular youth organizations, including through adequate financial assistance, and recognize them as valuable partners in providing citizenship and human rights education.

IV. From formal to transformative participation of youth

A. Discussion

31. The discussion on agenda item 3 was moderated by Ian Power, Executive Director of SpunOut.ie, the youth information website of Ireland, and President of the National

Youth Council of Ireland. The panellists were Anne Lambelin, Senator in the Federal Parliament of Belgium and delegate at the Inter-Parliamentary Union Forum of Young Parliamentarians; Tomaž Deželan, Associate Professor of Political Science, Jean Monnet Chair for Citizenship Education and Vice-Dean for Quality Assurance and Development at the University of Ljubljana; Aya Chebbi, activist and blogger, and member of the Board of Directors of CIVICUS World Alliance for Citizen Participation; and Anshul Tewari, founder and editor-in-chief of YouthKiAwaaz.com and director of the board of the Indian organization Collectively. Discussions focused on ways to ensure that young people had access to formal institutions, including their representation in parliaments and political parties. Opportunities and challenges related to online activism and e-participation were also debated.

32. Ms. Lambelin discussed the role of youth in parliaments and its importance for strengthening the rule of law and building inclusive democracies. Increasing demands by young people to be included in decision-making came from the informal space, thus questioning the ability of formal institutions to receive and address those demands. Formal and informal mechanisms were complementary in increasing the participation of youth in public affairs. Ms. Lambelin provided statistics showing how few young people were members of parliament and the absence of bodies or committees dedicated to youth issues, and the level of disenchantment of youth with politics and political institutions. She shared her experience as a young female parliamentarian confronting the many barriers preventing young people, particularly women, from becoming parliamentarians, including sexism and discriminatory attitudes. Additional economic, social and cultural barriers, including lack of adequate financial means, contributed to fostering the exclusion of young people from formal politics and institutions. Ms. Lambelin praised initiatives by the Inter-Parliamentary Union to mobilize parliaments to encourage greater participation by young people in political life, including through the establishment of the Forum of Young Parliamentarians, an international youth-led body that brought together young parliamentarians from around the world to monitor and promote youth participation. Finally, she noted that, at a time when the number of young people in the world had never been larger, their representation was a real necessity to inspire confidence in and to preserve and strengthen democracies.

33. Mr. Deželan highlighted some of the challenges faced by contemporary democracies. He noted that when a large segment of the youth were absent from the political process, the preconditions of collective self-rule were threatened and the social contract broken. Democracies suffered when decisions were made for youth without proper representation, particularly when those decisions concerned the adoption of austerity measures, as they often impacted disproportionately on youth, who were in a situation of socioeconomic vulnerability. It was important to understand why youth did not participate or were not adequately represented in politics and democratic institutions as a necessary preliminary step towards developing strategies to reform political structures and make them more relevant to youth. To that end, he explained the differences between the following categories of youth: those who were apathetic towards public life; those who were uninformed, or not interested in politics because they believed they did not know enough about politics to engage; those who were distrustful of politicians and the political system; and those who felt disempowered, despite being well informed about politics, and felt that nothing would change through their participation. In that context, he identified two critical goals that had the potential to improve the legitimacy, political efficacy and performance of political institutions: the creation of enabling structures grounded in the principles of inclusion and non-discrimination, and the improvement of the capacity of young people to act independently and to make their own free and informed choices.

34. Ms. Chebbi shared the experience of Tunisian young people in the post-revolution era and the expectation of an emerging young generation that they could participate effectively in shaping democratic institutions and political processes. Democratic transition

brought with it both challenges and opportunities for the youth. She provided statistics showing the low levels of involvement of youth in politics and of trust in State institutions but also a higher level of trust in the military and in religious organizations, demonstrating that younger generations were seeking ways to engage and express themselves but avoiding doing so through institutionalized politics. In that context, Ms. Chebbi noted that there was a direct correlation between the unfulfilled expectations of youth in terms of participation in public affairs and their growing sense of disengagement from politics and distrust in democratic institutions, which in turn fuelled exclusion and more mistrust. Another challenge stemmed from the lack of an appropriate legal framework to support civil society's efforts to build young people's political and leadership skills. She regretted that in many countries, youth tended to be asked for their views and participation only with regard to issues related to sports and music. She referred to a number of opportunities for increased youth participation, such as the lowering of the minimum age requirement to stand in parliamentary and presidential elections in Tunisia and to the system of quotas to ensure youth representation in local elections. She also referred to the positive practice of engaging youth in election observation programmes, which had proven to be successful in preventing electoral violence and fostering youth engagement in the electoral process.

35. Mr. Tewari spoke about the diversity of Indian society, including in terms of gender, ethnicity, culture and religion, and underlined that such diversity also existed among the youth, who were expected to number 700 million by 2020. However, although young people were very closely interconnected and engaged, they were also "growing in a culture of silence", in which the two most influential systems — the media and politics — were heavily top-down and not designed for participation, and were taught not to question the norm. Mr. Tewari stressed that the Internet and information and communications technologies (ICTs) constituted unique platforms for youth engagement. However, the lack of inclusivity and of access to ICTs for most marginalized and excluded youth were two major challenges to participation. He expressed concern regarding the nature of the engagement taking place online, which included the dissemination of rampant sexism, discrimination, patriarchal ideologies and other challenges that had been passed on to young people by older generations. While the responsibility to address those challenges lay with young people, they were not given enough space in politics or the media. He stressed that every single decision made had an impact on young people, and called for moving beyond lip service and creating more online and offline platforms, including in the media and civil society, in order to engage young people and give them the opportunity to influence decision-making.

36. Participants discussed whether setting voluntary or compulsory quotas were a driving factor for promoting long-term, sustained inclusion of young people in political processes, or rather stigmatized them. Most participants were of the view that quotas had the potential to break the vicious cycle of young people's marginal role in politics and decision-making when they were supported by additional measures, such as legislation that aligned the minimum voting age with the minimum age of eligibility to run for office, automatic voter registration and limitations on electoral campaign expenses, to allow young people to compete on an equal basis.

37. Participants discussed the need to create and preserve structures that offered inclusive opportunities for youth to influence decision-making, drawing from existing positive experiences at the local, national and regional levels such as participatory budgeting, youth councils, youth parliaments and co-management systems. The role of traditional political parties was also emphasized in the context of young people who wished to enter politics, particularly youth belonging to the most excluded groups, including rural youth, who often did not enjoy equal access to online platforms or to self-representation in the media.

38. It was acknowledged that ICTs had the potential to improve political participation and transparency, including by connecting grass-roots activities to institutionalized politics through online monitoring and participation in parliamentary activities. However, reservations were expressed with regard to a disturbing trend towards the proliferation of inaccurate information available on social media, particularly in the so-called "post-truth" era when objective facts were less influential in shaping public opinion than appeals to emotion and personal belief, and in situations where youth were "tech confident but not tech competent".

B. Recommendations

39. To ensure greater participation of youth, States should consider adopting or amending national legislation to align the minimum voting age and the minimum age of eligibility to run for office.

40. States and electoral management bodies, as appropriate, should consider introducing quotas with the aim of increasing youth participation, with adequate gender balance in parliaments and other elective positions. When quotas are introduced, monitoring of compliance and implementation of sanctions for non-compliance should be envisaged.

41. States should establish or strengthen accessible and inclusive structures, such as local youth councils, youth parliaments or other consultative mechanisms, to foster youth participation in all institutions. Such mechanisms should be grounded in law, provided with an adequate budget and tasked with the formulation of recommendations that should be acted upon and followed up.

42. National authorities and regulatory bodies at all levels should collect data to track youth participation, representation and inclusion in political processes and institutions. This could be achieved by, inter alia, creating focal points within public institutions to collect and periodically publish data on youth participation, representation and influence (e.g., a youth index).

43. To ensure inclusive online participation, States should take measures to increase access to the Internet for marginalized and excluded youth, including through media education programmes. These programmes should address the technical fundamentals of the Internet and also explore how to harness youth engagement to foster dialogue with political authorities and participation in political processes via online platforms. Media education curricula should address issues related to combating hate speech, xenophobia, sexism and gender stereotypes, racism and any other form of intolerance.

44. As community media fulfil an important democratic role and contribute to empowerment and media pluralism, States should provide an enabling legal environment and financial support to youth-led media with a view to promoting the right of youth to freedom of expression and participation, strengthening connections between youth, civil society organizations and policymakers and raising awareness of youth issues, particularly those affecting the most excluded youth.

45. States should introduce mechanisms to promote an intergenerational dialogue within existing policymaking structures. The promotion of inclusive and safe spaces for informal dialogue across generations should also be encouraged.

V. Participation of youth in sustainable development and human rights protection in specific contexts

A. Discussion

46. The moderator of the panel on agenda item 4 was Francine Muyumba, President of the Pan African Youth Union. The panellists were Ana Saldarriaga, member of the Supervisory Board of AIESEC; Scott Atran, anthropologist at the National Center for Scientific Research of France, Oxford University and the University of Michigan; Hajer Sharief, co-founder of Maan Nabniha (Together We Build It) and member of the advisory group of experts for the Secretary-General's progress study on youth, peace and security, mandated by the Security Council in resolution 2250 (2015); and Martine Kessy Ekomo-Soignet, founder of URU (Take off) and member of the advisory group of experts for the Secretary-General's progress study. Discussions focused on the role of youth in the implementation of the Sustainable Development Goals and in strategies for the resolution of conflicts, peacebuilding efforts and the prevention of violent extremism.

47. Ms. Saldarriaga recommended that young people not be seen as an "issue" that needed to be addressed in each of the Sustainable Development Goals, but rather as protagonists and partners in making the Goals a reality. That perspective would help challenge biased attitudes towards the role of youth and open channels for youth participation in the implementation of the Goals. Ms. Saldarriaga identified three main roles for youth: to raise awareness among young people about the Sustainable Development Goals and their potential impact on their lives; to engage with local and national governmental structures and hold them accountable for implementing the Goals; and to act as role models and become influential leaders. She explained some of the challenges and barriers encountered in strengthening the role of youth in the implementation of the Sustainable Development Goals, such as the lack of transparent, accessible and inclusive implementation plans and the lack of official channels for youth participation in measuring progress. Gender inequality and discrimination against women were among the main obstacles hindering young women's chances to become influential leaders and drivers for change. She proposed innovative ways to overcome those barriers that would involve traditional and social media, both the public and the private sector and academia. As a preliminary step, it was important to understand young people's needs and to take into account differences in cultures and education levels among youth, so as to leave no one behind.

48. Mr. Atran noted that human rights, democracy and equality before the law had not been commonplace notions for most of human history and across cultures, and that those principles had been and would continue to be made to prevail only through costly battles. He pointed out that youth had an important role to play in keeping those principles alive and to ensure that radical Islam and xenophobic ethno-nationalism did not tear apart the social and political fabrics. Yet, youth were becoming increasingly marginalized from engagement with the political structure. With regard to the jihadi movement, he expressed the view that perhaps never before in history had so few, with such meagre means, caused such fear in so many, dominating global political discourse like no other subject since the Second World War. He discussed the increasing involvement of women, especially young girls, in facilitating social connections within that movement without being directly involved in the violence or logistical support. To counter the movement's ideology, rather than focusing on counter-narratives with negative mass messaging, he advocated engagement with real people and actual places. He cited as an example social development projects initiated by young people, in consultation with local sheikhs, that had proven to be successful in turning youth away from violence and fostering feelings of self-worth. He

also stressed the need to involve women and young people in all peace negotiations, and warned against transforming youth into “just another advocacy group within the neo-liberal framework of identity politics”.

49. Ms. Sharief referred to her experience of a society that had turned to violence. She stressed the importance of the international community’s support in such environments and highlighted the impact of such support on power structures on the ground. She invited participants to reflect on some questions to be asked when such support was provided: who were the recipients of international support? Who was entitled to take part in peace negotiations? Who was recognized as an important player on the ground and whose security was prioritized? Ms. Sharief welcomed the adoption of Security Council resolution 2250 (2015) and explained that, although the Council explicitly asked for the inclusion of youth in peacebuilding processes, the question remained how to make the resolution relevant to local communities. Drawing from her experience, including with the implementation of resolution 1325 (2000) on women, peace and security in Libya, she explained that one of the main challenges in translating such resolutions into reality at the local level was that they were difficult for local communities to understand. What was needed was to explain the world to the United Nations, not to explain the United Nations to the world. Ms. Sharief also referred to a friend who had been killed by an armed group in Libya because of his work in defending youth human rights, and asked participants to join her in paying tribute to the human rights defender by standing up and promising never to remain silent and to speak up for human rights.

50. Ms. Ekomo-Soignet offered some insights into the situation of youth participation in the peace process in the Central African Republic. She stressed that the notion of human rights did not necessarily resonate with young people, who sought specific and tangible solutions for difficulties in their daily lives and were often not familiar with human rights instruments. Small initiatives had the potential to inspire other young people to engage and sensitize their communities, local leaders and international actors to seek practical and durable solutions. She regretted the focus on sensational stories and recommended adopting a bottom-up approach to making human rights more relevant. She provided an example from the largest internally displaced person camp in her country, where young people succeeded in regaining freedom of movement where international organizations had failed, simply because youth belonging to the Muslim community and Christian youth wanted to play football together. She explained how social cohesion had been restored, and that Christian children were able to return safely to schools close to the Muslim neighbourhood and women to the local market, thereby having a concrete impact on their human rights. She asked young leaders to mobilize and work with the 75 per cent of young people in the Central African Republic who were currently affected by armed conflict and to think of actions that could have a real impact at the local level. Turning to the participation of youth in peace negotiations and peace processes, she regretted the lack of structured and systematic participation by young people, particularly those most marginalized and living in rural areas, in peace initiatives at all levels.

51. Participants discussed the importance of youth taking the Sustainable Development Goals to the grass-roots level and translating them into concrete achievements. In that regard, participants provided examples of successful activities that might be replicated in various country situations, including partnering with the business sector, to champion the implementation of the Goals. The importance for youth organizations to assess the convergence of the Sustainable Development Goal targets with existing State initiatives, policies and programmes and to secure the Government’s support for the implementation of youth-led projects, including those aimed at ensuring that youth needs and expectations were effectively met, was also emphasized.

52. Participants highlighted the potential of the Sustainable Development Goals to provide young people with concrete means to improve their lives, which in turn could contribute to countering the appeal of violent extremist groups. Factors that pushed young people to join extremist movements were discussed, including the assumption that socioeconomic marginalization was the exclusive driver for radicalization, disregarding the importance of the aspiration to feel empowered and part of a community that some youth sought by joining extremist groups.

53. Participants identified some of the major challenges that hampered youth participation in peacebuilding and peace negotiation processes, including the lack of recognition of the positive role youth could play in implementing the peace and security agenda. Such an approach was often based on narratives that described youth either as the people most likely to be violent and receptive to appeals to take up arms and violent extremism, or as mere victims of conflicts. Consequently, youth were consulted only sporadically, most often through ad hoc meetings. Participants also recognized the difficulties that youth, particularly marginalized youth, faced in securing funds to cover their participation in multi-stakeholder conferences and forums where peace and security issues were discussed and important decisions made.

54. Participants also discussed possible synergies between Security Council resolutions 2250 (2015) and 1325 (2000) and the lessons learned from the latter, particularly with regard to effective initiatives to translate abstract concepts such as peace and security into local reality.

B. Recommendations

55. States should ensure that young people are encouraged to develop a sense of opportunity and ownership in relation to the Sustainable Development Goals and are engaged in their implementation. This can be achieved, for example, by raising awareness about the 17 Goals and their relevance to local needs through campaigns and other creative approaches, particularly in remote areas and among marginalized young people. In this context, States should provide safe spaces for youth to express their concerns, needs and priorities in relation to the implementation of the Goals. They should also work with youth to ensure that implementation plans take local needs into account.

56. Traditional media should disseminate information to help youth, particularly youth with no access to the Internet, understand the Sustainable Development Goals and their potentially transformative impact at the local level. The media should support accountability initiatives and mechanisms, including by disseminating information on actions undertaken by the authorities, their shortcomings and achievements in the implementation of the Goals. Moreover, the media should contribute to fostering a dialogue between Governments and young people, including by providing youth with the opportunity to express their views and to influence decision makers.

57. States should allocate adequate political, technical and financial support to ensure that Security Council resolution 2250 (2015) is relevant to local communities, that the resolution is implemented and that it gives rise to concrete peace and security programmes and policies. Such programmes and policies should be designed, implemented and monitored with the full, effective and meaningful participation of youth organizations and youth from local communities. States should commit to provide adequate financial support to such organizations and work with them to ensure their participation in efforts towards the implementation of the peace and

security agenda, including raising awareness on resolution 2250 (2015) and its potentially beneficial impact at the local level.

58. States should establish mechanisms for the sustainable, effective and meaningful participation of youth in peace negotiations, peacebuilding and transitional justice initiatives and processes. Special attention should be given to groups that are often disproportionately affected by conflict, such as young people with disabilities, internally displaced youth and refugees and young women and girls, to ensure their participation in peace negotiations and peacebuilding initiatives, including by creating safe spaces to raise their specific concerns.

59. Youth-led initiatives that have proven to contribute to peacebuilding should be recognized, promoted and supported. The media should promote the positive role of young people in peace-related initiatives, as well as disseminate successful stories of youth-led initiatives at the local level.

60. Responding to the multifaceted drivers and conditions contributing to the emergence of violent extremism requires comprehensive and sustained participation of young people at all levels of decision-making. Any measures and programmes to prevent violent extremism should comply with human rights norms and standards and include a major focus on strengthening the local and endogenous capacities of youth for preventing violent extremism and on supporting the resilience of communities to threats of violent extremism, including through mutual support and community-based mentorships.

61. States should develop violence-prevention strategies that are in full compliance with their human rights obligations and that go beyond simple security responses, for example, by ensuring that youth have the opportunity to contribute to the development of their communities. Attention should be paid to ensuring that such measures neither discriminate against nor stigmatize particular groups or communities.

VI. Moving the global youth agenda forward: the role of youth in shaping the agenda of the United Nations and regional organizations

A. Discussion

62. The moderator of the panel on agenda item 5 was Mr. Alhendawi. The panellists were Max Trejo Cervantes, Secretary-General of the Ibero-American Youth Organization; Alexander Kauschanski, former youth delegate to the United Nations from Germany and member of the World Federation of United Nations Associations; and Rita Muyambo, Head of Programmes for the World Young Women's Christian Association. Discussions related to measures to ensure the participation of young people in the work of the United Nations and regional organizations, including possible avenues for young people to bring allegations of human rights violations before international and regional human rights mechanisms, and ways to ensure that issues relevant to youth were considered by those mechanisms.

63. Mr. Trejo Cervantes described the activities of the Ibero-American Youth Organization and its mandate to provide a platform for working towards ensuring the human rights of millions of young people living in the region, and outlined the organization's achievements. Among the initiatives it had promoted were the Ibero-American Pact for Youth and the Ibero-American Convention on the Rights of Youth and

its additional protocol. He explained that the Pact had been developed with young people, including Afrodescendants, indigenous people and representatives of the lesbian, gay, bisexual and transgender community, through a participatory, inclusive and bottom-up approach and taking into consideration young people's expectations and diverse experiences. The Pact provided a legal and programmatic framework for the development of concrete actions and tangible initiatives developed by and with young people in 21 States. It was complemented by a plan of action for the effective implementation of youth rights through a holistic and comprehensive approach in which participation featured as a cross-cutting right. The guarantee of youth participation as a right was also made explicit in the updated Ibero-American Convention and its additional protocol, international legally binding instruments dedicated to the promotion and protection of the rights of young people. He concluded by recalling that young people were strategic stakeholders, economic players and agents of social change, and noted that the positive developments in the field of youth participation had shown that youth participation was no longer an idea, but a fact. Mr. Trejo Cervantes urged relevant stakeholders not to limit their efforts to merely listening to the voices of youth but rather to act upon them.

64. Mr. Kauschanski shared his experiences as a young person participating in decision-making at the international level. He explained that the role of youth delegates was to strengthen linkages between civil society and the United Nations. At the international level, for example, that translated into the responsibility to draw attention to youth concerns and ideas when important resolutions were negotiated and adopted, as well as to advocate for more youth representation in international decision-making forums. At the national level, youth delegates, through their access to politicians, could contribute to making the priorities of the international community a political reality. They raised awareness among young people about the United Nations, shared ideas and empowered youth to engage with political processes. Despite the recommendations made since 1981 to Member States to include youth in their delegations, only about 35, mostly developed, countries (the highest number in the history of the youth delegate programme) included youth in their delegations to United Nations meetings. However, aside from the youth members of State delegations, many young people had taken concrete action to make their voices heard at the international level, including representatives of youth organizations, young human rights defenders and unpaid United Nations interns. All those efforts combined were now paving the way for the enhanced participation of youth in the United Nations. Mr. Kauschanski made a plea to all participants to continue their engagement to empower the young generations to take an active role in decision-making.

65. Ms. Muyambo discussed the role of youth in the work and activities of the Human Rights Council and her experience with the organization of the youth forum at the Commission on the Status of Women, as well as of the first youth forum held in connection with the Council, prior to its thirty-second session. Ms. Muyambo welcomed the adoption by the Council of resolution 28/14 establishing the Forum and congratulated the Permanent Mission of Romania to the United Nations Office at Geneva and the core group for having created a space for young people. She shared lessons learned from the youth forum of the Human Rights Council, and stressed the need to educate youth about the mandate of the Council and to provide clearer guidance on how young people could participate and engage meaningfully with its work, including the universal periodic review. Ms. Muyambo raised the issue of how to ensure that discussions held in the Forum would have an impact at the local level, particularly among the most marginalized youth, including young women. She noted the high level of frustration among young people, who already felt distant from policymaking at the local level, and how such frustration was amplified vis-à-vis the work of the Council, which was perceived as being even further away from their reality.

66. Participants discussed whether an international legally binding human rights instrument for youth rights would strengthen the protection and promotion of those rights.

Reference was made to the regional experiences in Latin America and Africa and to the Ibero-American Convention and the African Youth Charter, and to the potential benefits of a youth-specific binding instrument provided that such an instrument comprehensively addressed the fast-evolving challenges and needs of today's young generation.

67. The possibility of establishing new mechanisms to strengthen the protection of the rights of youth at the international level was also discussed. Participants referred to the possibility of creating a dedicated new special procedure of the Human Rights Council. Reference was also made to a possible joint general comment on the rights of youth to be adopted by human rights treaty bodies. Participants were of the view that, aside from any new mandate, mechanism or instrument, more efforts should be deployed to make better use of existing human rights monitoring mechanisms, including by mainstreaming youth rights in the work of those mechanisms and by strengthening the implementation of States' human rights obligations at the national level. It was also suggested that the Council should consider requesting the submission of a report containing an in-depth analysis of the obstacles faced by young people in the exercise of their human rights. It was also recommended that guidance be developed for States regarding the adoption and implementation of rights-based approaches to national youth policies.

68. Participants acknowledged that the United Nations had made good progress in making youth rights visible across the system, including through the creation of the mandate of the Special Envoy of the Secretary General on Youth and the adoption by the Security Council of resolution 2250 (2015). Nevertheless, much more needed to be done, for instance, with regard to the establishment of a youth delegate programme in all countries and the systematic inclusion of youth delegates in States' delegations to the various United Nations organs and bodies. That would be particularly important for engaging and obtaining the support of older generations of decision makers in ensuring that youth rights were a priority in the United Nations system, as "youth speaking to youth" would not be likely to change anything. Participants agreed that the Human Rights Council should offer more channels and entry points for the voices of youth, particularly in the light of its mandate as the main body responsible for the global promotion and protection of human rights. In that context, participants welcomed the panel on youth and human rights that had been held during the thirty-third session of the Council.

B. Recommendations

69. **International and regional intergovernmental organizations should ensure that their member States' legal and policy frameworks guarantee the effective promotion and protection of the human rights of youth, including the inclusive, full and effective participation of youth in decision-making.**

70. **States should guarantee the right of young people, individually and in association with others, to unhindered access to, and communication with, international bodies, in particular the United Nations, its representatives and human rights mechanisms. They should create the conditions to support the participation of young people in regional and international forums and, in particular, their engagement with regional and international human rights mechanisms. This should include the removal of barriers to their meaningful participation, such as undue restrictions placed on the sources of funding of youth associations and overly restrictive legislation on freedom of expression, peaceful assembly and association, and freedom of movement.**

71. **States should consider creating mechanisms to ensure effective and meaningful participation of youth in the work of the Human Rights Council, including through youth consultative mechanisms and the participation of youth in relevant discussions,**

including as expert members of panels. States should include or increase youth representation within their delegations to all relevant regional and international forums, notably the Council. Youth activists should consider assisting States in this effort, including by advocating for the creation in their country of a youth delegates programme with adequate financial resources.

72. Civil society organizations, in their respective areas of expertise, should more consistently draw attention to issues related to the human rights of youth, including when interacting with United Nations human rights mechanisms. They should also include or increase participation of young people in their delegations to regional and international human rights forums and facilitate their engagement with regional and international human rights mechanisms.

73. States and civil society organizations should invest in education, training and awareness-raising initiatives at the local level to raise awareness among young people with regard to regional and international human rights instruments and mechanisms, including individual communication procedures.

74. In the context of the universal periodic review, Governments and civil society organizations should regularly submit information and make recommendations about youth rights. Youth-related recommendations should be widely disseminated by Governments and civil society organizations in order to ensure adequate follow-up.

VII. Concluding remarks

75. In their concluding remarks, both Co-Chairs expressed their appreciation to all participants for their engagement and commitment, and thanked all panellists and moderators for their excellent contributions and the Office of the United Nations High Commissioner for Human Rights for the organization of the Forum.

76. Mr. Mukashev summarized the main issues that had been discussed over the two days of the Forum and recalled the importance of combating discrimination, the need for the empowerment of youth and the importance of education to ensure more meaningful participation of young people. He expressed his satisfaction at the large number of participants and encouraged youth delegates to attend the next session of the Human Rights Council in March 2017, when the report of the Forum would be presented. He concluded by saying that, beyond the challenges faced by youth, the inspiration and hope that had permeated the first session of the Forum gave him solid ground for believing that the inspiration it had generated would be manifested in a world where youth voices were heard and taken into account. He invited all participants to remember the importance of listening to young people. All measures taken to implement the recommendations of the Forum should be developed, implemented, monitored and assessed in consultation with, and with the participation of, young people, including young women and girls.

77. Mr. Alhendawi said that the Forum represented an important landmark for advancing the youth human rights agenda. He stressed that Governments and nations should remain united around the common objective of advancing human rights for all, and should not fail the largest young generation in history. He expressed the hope that democracy and the rule of law would continue to benefit from the talent, enthusiasm and contributions of young people. He mentioned the "Not Too Young to Run" campaign launched by his Office together with partner organizations with the aim of raising awareness on the challenges young people faced in running for elected office. While recognizing that the challenges to youth participation remained enormous, Mr. Alhendawi was confident that progress was possible, with the support of the United Nations and others.

He also expressed the hope that the Human Rights Council would continue to pay attention to the question of youth participation and youth rights.



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Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report on the second session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights^a

Chair-Rapporteur: María Fernanda Espinosa

^a The annexes to the present report are circulated as received, in the language of submission only.

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I. Introduction

1. The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights was established by the Human Rights Council in its resolution 26/9 of 26 June 2014, and mandated to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises with respect to human rights. In the resolution, the Council decided that the first two sessions of the working group should be dedicated to conducting constructive deliberations on the content, scope, nature and form of the future international instrument. Following its first session, held from 6 to 10 July 2015, the working group presented its first progress report to the Council at its thirty-first session (A/HRC/31/50).
2. The second session, which took place from 24 to 28 October 2016, opened with a video message by the United Nations High Commissioner for Human Rights. The High Commissioner congratulated the Chair-Rapporteur and stated that business entities had a vast and growing impact on peoples' lives, including on gender relations, the environment, neighbourhoods and access to land and other resources. When businesses paid insufficient attention, they often infringed on people's human rights. The High Commissioner underlined the importance of preventing and redressing business-related human rights abuses and of ensuring greater accountability and access to remedy for victims. He referred to the outcomes of the accountability and remedy project of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (see A/HRC/32/19), suggesting that the project could provide some guidance for the working group discussions. He welcomed the embrace of civil society voices and the constructive involvement of States and other stakeholders in the working group discussions, reiterating the full support of his Office and wishing the working group success in its deliberations.
3. The High Commissioner's message was reinforced by the remarks of the Director of the Thematic Engagement, Special Procedures and Right to Development Division, who emphasized the need for improved mechanisms of accountability with respect to corporate human rights abuses.

II. Organization of the session

A. Election of the Chair-Rapporteur

4. The working group elected María Fernanda Espinosa Garcés, Permanent Representative of Ecuador, as Chair-Rapporteur by acclamation following her nomination by the representative of Honduras on behalf of the Group of Latin American and Caribbean States.

B. Attendance

5. The list of participants and the list of panellists and moderators are contained in annexes I and II, respectively.

C. Documentation

6. The working group had before it the following documents:
 - (a) Human Rights Council resolution 26/9;
 - (b) The provisional agenda of the working group (A/HRC/WG.16/2/1);
 - (c) Other documents, including a concept note, a programme of work, a list of panellists and their curricula vitae, a list of participants, and contributions from States and other relevant stakeholders, which were made available to the working group through its website.¹

D. Adoption of the agenda and programme of work

7. In her opening statement, the Chair-Rapporteur expressed gratitude for the renewed trust placed in her as Chair-Rapporteur and pledged to maintain transparency and openness to dialogue. In a context of large-scale outsourcing of production and global value chains spanning different jurisdictions, international human rights must play a central role. The initiative of a binding instrument was based on respect for the principles of fairness, legality and justice, which should prevail for the benefit of all in the international context, and the objective of the process was to fill gaps in the international system of human rights and to provide better elements for access to justice and remedy for victims of human rights abuses related to transnational corporations. That objective was in no way aimed at undermining host States or the business sector, but was intended to level the playing field with regard to respect for human rights.

8. The Chair-Rapporteur presented the draft programme of work, which was adopted as proposed.

9. Jeffrey Sachs delivered a keynote message via videoconference, expressing support for an international legally binding instrument under which transnational corporations could be held accountable and their compliance with human rights standards could be promoted and enforced. Noting that the most important locations for the enforcement of human rights and access to remedy for victims were national judicial systems, he underlined the need to incorporate international human rights into national legislation and to facilitate access to justice. Citing weak enforcement of judgments as the biggest obstacle to achieving access to justice, he stressed the international responsibility to honour judgments rendered, including in developing countries, which were often hosts to transnational corporations. Transnational corporations were more powerful than many Governments; therefore they should be accountable and comply with human rights for the decent development of the world economy. An international treaty could strengthen the capacity of Governments to ensure remediation.

III. General statements

10. State delegations acknowledged the work of the Chair-Rapporteur and the transparent and inclusive process of consultation, as well as the flexibility demonstrated by States and other relevant stakeholders in the preparation of the programme of work. They recalled that many actors had struggled for more than 40 years to develop effective global standards to hold companies accountable with respect to human rights.

¹ www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session2/Pages/Session2.aspx.

11. One regional group emphasized that transnational corporations and other business enterprises, through the global reach of their operational activities, had social and political impacts disproportionate to their legal and social obligations, nationally and internationally. While recognizing that some positive measures had been implemented nationally and regionally, the group posited that in order to promote global compliance with a uniform standard, action must be initiated to develop an international legally binding instrument. That would be an effective response to many of the issues arising in the context of the widely perceived inequality in rights and obligations that existed between transnational corporations and other business enterprises and victims of business-related human rights abuses; the same point was subsequently reiterated by other delegations and non-governmental organizations (NGOs). Violations of human rights by such entities, for example in the areas of child labour, environmental degradation and decent work and wages, affected marginalized and impoverished groups disproportionately and exacerbated existing human rights concerns. The group stated that it remained committed to the letter and spirit of Council resolution 26/9 and encouraged the Chair-Rapporteur to prepare a draft negotiating text for the next session, based on the deliberations carried out to date and her own initiatives in that regard.

12. Some delegations asserted that a legally binding instrument was needed in order to redress the current imbalance between the progressive recognition of rights on the one hand, and the economic and political guarantees extended to transnational corporations on the other. Without corresponding obligations for corporations to respect human rights, rights were being undermined.

13. Many delegations stressed that business enterprises could support the economy and contribute to development while respecting human rights, such as the right to development, including access to public services. It was noted that constructive dialogue in the process towards an international legally binding instrument was essential. Some delegations expressed support for the Guiding Principles on Business and Human Rights and their implementation through national action plans. Many delegations recognized that the Guiding Principles and the mandate of the working group were mutually reinforcing, both representing positive steps towards the protection of human rights. Some delegations mentioned that the working group's mandate did not duplicate other efforts at the international level.

14. The European Union noted with appreciation that the programme of work, which was a result of compromise and flexibility, provided the reassurance that the process did not undermine the much needed continued implementation of the Guiding Principles. The programme of work widened the scope of the working group beyond transnational corporations so that the discussion could also cover all other enterprises. The European Union also noted with appreciation that agreement had been found on the programme of work for the second session, allowing it to participate. It stressed the importance of including civil society organizations, trade unions and the private sector in the deliberations. The representative reminded the international community that more remained to be done to prevent abuses in connection with activities by transnational corporations and other business enterprises and to enable access to remedy when abuses occurred, and referred to the mobilization carried out by civil society and human rights defenders worldwide on those issues. In line with the earlier concern expressed by the European Union that the working group had been established without other options, including the use of existing United Nations forums, having been considered, the representative emphasized that the international community needed to respond in a responsible and effective manner. In that connection, one State delegation called for the implementation of the guidelines for multinational enterprises published by the Organization for Economic Cooperation and Development (OECD).

15. Another political group referred to the recommendation on human rights and business recently adopted by its Committee of Ministers, which built on the Guiding Principles, incorporating access to remedy and including additional guidance in relation to particular vulnerable groups.

16. One delegation noted that any legally binding instrument on transnational corporations and human rights should address the challenges posed by conflict areas and areas under occupation. The delegation indicated that its members were looking forward to the results of the data-based project on businesses operating in the occupied territories (see Human Rights Council resolution 31/36).

17. Several delegations stressed the importance of a victim-centred approach and a focus on access to remedies and reparations. Even if there were positive measures at the national level to protect victims from human rights violations by transnational corporations, there must also be measures, standards and mechanisms in a binding instrument at the international level. Additionally, transnational corporations must fulfil existing binding obligations relating to human rights in accordance with international law.

18. One delegation noted that different national circumstances might need to be taken into account while respecting and protecting human rights.

19. Most NGOs concurred that any binding instrument must clearly establish the obligations of transnational corporations to comply with environmental, health and labour standards and international humanitarian law. It would need to outline the right of individuals and affected communities to access to justice and include provisions for the accountability of parent companies, protection of human rights defenders and the right to self-determination.

20. Several NGOs advocated that any treaty proposed should provide for international implementation mechanisms and possibly an international tribunal. Ultimately, such an instrument should allow States to regain policy space for the protection of human rights.

21. NGOs warned against corporate capture in the negotiation of a binding instrument, with States having the responsibility to act in the interests of their people and not in the interests of transnational corporations. As an instructive example, reference was made to the guidelines for the implementation of article 5 (3) of the WHO Framework Convention on Tobacco Control, on protecting against interference by transnational corporations.

22. Some NGOs called for gender perspectives to be mainstreamed in the instrument, since human rights violations by transnational corporations might exacerbate pre-existing inequalities and exert negative gender impacts. Gender perspectives also needed to be included in assessments of the human rights impact of projects and activities planned by transnational corporations, including with regard to problems faced by those who defended the human rights of women.

IV. Panel discussions

A. Panel I. Overview of the social, economic and environmental impacts related to transnational corporations and other business enterprises and human rights, and their legal challenges

23. The first panellist noted that many transnational corporations had committed human rights violations with impunity. Furthermore, international investment treaties had granted rights to such corporations to bring claims against States for regulating in the public interest. The situation could be remedied by a treaty that would hold transnational

corporations and other corporate actors accountable for human rights violations resulting from their operations, including in their global value chains, and that would allow for the individual liability of leaders involved in the decision-making process. Such a treaty would be tantamount to a right of appeal and should make that right accessible to individuals, groups, trade unions and communities free of charge, with costs covered by a tax to be paid by transnational corporations. In addition to recognizing the standards set by the International Labour Organization (ILO) and by the World Health Organization (WHO), those participating in the treaty process should recognize the need for an international court on climate issues.

24. The second panellist noted that the working group process was relevant to the implementation of the 2030 Agenda for Sustainable Development. Modern development had seen close collusion between financial and corporate actors, since investment for delivering the 2030 Agenda was not based on credit, but on the reinvestment of corporate profits. While large companies had great potential for delivering social progress, they often contributed to a race to the bottom with regard to taxes and labour costs. Similarly, free trade agreements carried downstream economic risks and might transfer control of some factors of the economy from the public sector to the private sector. A binding instrument would address those issues and provide an alternative to trade agreements negotiated behind closed doors.

25. The third panellist identified the need to address the structure of transnational corporations and their supply chains, acknowledging the failure of soft law and voluntary approaches and expressing support for the development of an instrument that would build on, and not undermine, the Guiding Principles. Such an instrument must cover workers' rights, particularly those set out in the ILO Declaration on Fundamental Principles and Rights at Work, and should be applicable to transnational corporations but not exclude other businesses, in order to avoid accountability gaps. A treaty should include an obligation on States to adopt measures on human rights due diligence and clarify the steps that companies should take in that regard, and should establish legal liability and extraterritorial jurisdiction for human rights abuses.

26. The fourth panellist stressed that corporate legal structures rendered it difficult to hold corporations accountable. She pointed to the problem of enhanced protection of investor rights, which often went further than national law and provided investors with a right to have their claims settled by international arbitration rather than in national courts. Investment treaties could clash with States' obligations to protect human rights, and the threat of international investor-State dispute settlement proceedings had a chilling effect on developing countries in terms of regulatory measures. Investor-State dispute settlement proceedings resulted in an imbalance of power because they provided a remedy only for business stakeholders. One solution would be to allow victims access to courts of the investors' home States, which was often where assets of transnational corporations were located. A binding instrument could provide guidance for the development of trade and investment instruments, including by stipulating the requirement of ex ante and ex post facto human rights impact assessments and setting out appropriate investor obligations. Such principles were reflected in the Investment Policy Framework for Sustainable Development of the United Nations Conference on Trade and Development (UNCTAD) and in South African and Indian law.

27. The fifth panellist noted that the corporate law principles of separate legal identity and limited responsibility were often applied together in relation to the acts of subsidiaries, allowing the mother company to escape responsibility. Certain legal doctrines, such as piercing the corporate veil, were designed to resolve such problems. A binding instrument could set out standards for operationalizing such principles, and the identification of those standards did not require a unique understanding of what a transnational corporation was.

The panellist suggested that the instrument should provide for mechanisms to facilitate the protection of human rights.

28. The sixth panellist criticized the practice of tax evasion by companies and suggested country-by-country tax reporting. The belief of States that they must sign bilateral investment treaties in order to attract foreign direct investment was seen as the source of the investor-State dispute settlement system. However, such bilateral treaties were a threat to democracy, removing the control of the judiciary, and could interfere with legislative processes.

29. Most delegations concurred that voluntary standards were insufficient and that a binding instrument should affirm that human rights obligations prevailed over commercial law. States had obligations to regulate in the public interest, defend the rights of people against privatization, strengthen mechanisms for due diligence and ensure that transnational corporations did not use their influence to avoid accountability and payment of reparations to victims. One delegation suggested that maximum deterrence could be achieved by imposing criminal liability.

30. Several delegations referred to the asymmetry between rights and obligations of transnational corporations in bilateral investment treaties and free trade agreements. Concern was expressed about the access by corporations to international arbitration against States, where there were no corresponding mechanisms to address the obligations of corporations to respect human rights.

31. A number of delegations referred to specific cases to demonstrate how transnational corporations had used bilateral and multilateral agreements to challenge measures taken by States to protect human rights. One delegation referred to a case where such a challenge had failed, highlighting the existence of tools for States to defend themselves properly before international arbitration tribunals.

32. Another delegation reaffirmed the right of the State to regulate in the public interest and referred to its own act on the protection of investment, aimed at securing a balance between the rights and responsibilities of investors.

33. Some delegations claimed that it was not feasible to compare transnational corporations and local companies since domestic law could hold the latter accountable.

34. Many NGOs stated that a binding instrument should not be conceived of as an isolated human rights instrument, but should take into account international trade and investment agreements. Furthermore, it should include a hierarchical clause establishing the primacy of human rights over trade and investment agreements and address critical gaps in assessing and monitoring the impact of such agreements. Calls were made for the establishment of an international tribunal or mechanism to investigate and ensure the accountability of transnational corporations.

35. One delegation raised the issue of unilateral economic sanctions and asked whether States could compel corporations to enforce such sanctions in the light of negative impacts on human rights.

36. NGOs enumerated some of the adverse human rights impacts caused by transnational corporations and requested that the binding instrument guarantee indigenous peoples' rights, recognize the primacy of the human right to water over profit-seeking in the water sector and guarantee access to safe drinking water and other resources. Few countries had adopted national laws in accordance with the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

B. Panel II. Primary obligations of States, including extraterritorial obligations related to transnational corporations and other business enterprises with respect to protecting human rights

Subtheme 1. Implementing international human rights obligations: examples of national legislation and international instruments applicable to transnational corporations and other business enterprises with respect to human rights

37. The first panellist pointed to the paradox of some States claiming that human rights interfered with their sovereignty while remaining willing to sign investment treaties that protected the rights of transnational corporations and directly interfered with their sovereignty. A binding treaty must: address the regulatory shortfall with respect to the protection of human rights and codify and develop the responsibility of States to protect human rights; build capacity and help States to adopt effective legislative and administrative measures to establish the criminal and civil liability of corporations responsible for human rights abuses; and provide standards to protect public policy in bilateral investment treaties.

38. The second panellist drew attention to the well-developed international human rights regime and recalled the obligation of States to protect, respect and fulfil human rights, including in relation to the activities of third parties, such as businesses, while simultaneously noting the significant limitations to States' compliance with such a regime. Any binding instrument should be developed in a way that addresses the causes of current enforcement gaps.

39. The third panellist referred to relevant international standards that might be useful in developing the content of an international instrument, citing, for example, the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, in particular principles 8, 9, 25, 26, 29, 36 and 37.

40. The fourth panellist noted that infringement of human rights by transnational corporations happened in the context of an overall architecture of impunity. A binding instrument could change that state of play, remedy the asymmetry between the rights and obligations of transnational corporations, allow for the monitoring of human rights compliance of transnational corporations by home and host States as well as by citizens, and extend the obligations of such corporations in relation to contracting with suppliers. There would be a need for an international court to enforce the treaty, as well as for extraterritorial obligations and universal jurisdictional mechanisms.

41. One delegation noted that States were expected to uphold human rights both at home and abroad and advocated for the implementation of the Guiding Principles.

42. Several delegations recalled the primary obligation of States to protect human rights, including in relation to transnational corporations. Regional courts had acknowledged that corporate abuses could lead to States violating their obligations to exercise due diligence. A binding instrument would allow both home and host States to protect human rights and redress violations committed by transnational corporations.

43. Examples were given of domestic law that required companies to accept monitoring by Government and members of the public, for example in the areas of labour, environmental law and consumer protection. It was recommended that countries should make human rights a key factor when considering international investment.

44. One delegation cited the need to agree on clear standards to prevent transnational corporations from avoiding extraterritorial obligations and turning to international arbitration to protect their interests. Another delegation observed that the extraterritorial dimension could be dealt with as per the practice of treaty bodies, which had stated that

home States had duties in relation to the extraterritorial operations of transnational corporations and that such duties did not infringe on host States' sovereignty.

45. Another delegation advocated for a binding instrument to address the issue of State complicity, pointing out that the corrupting influence of corporations might take many forms, including lobbies and unlimited resources. In the State represented by the delegation, human rights were an important pillar of domestic and foreign policies and enshrined in the Constitution, which had enabled the judicial system to hand down judgments finding corporations responsible for human rights violations. However there had been enforcement challenges following the closure or relocation of corporate operations. The delegation referred to its Government's guidelines on good practices for domestic companies operating abroad.

46. Some delegations challenged the value of investor-State dispute settlement proceedings, describing how unfair arbitration processes could lead to major economic costs for States. Victims of human rights violations generally did not have access to arbitration, even in local courts, and non-compliance with national rulings was frequent. Other questions raised included how to reconcile State sovereignty with the notion of extraterritorial and universal jurisdiction, and how to guarantee the implementation of decisions adopted by host States regarding violations of human rights by transnational corporations when the latter fled the jurisdiction.

47. NGOs conveyed experiences of assisting victims and highlighted the multiple procedural and legal obstacles, including when holding parent companies accountable for subsidiaries' abuses. A binding instrument should overcome such obstacles, with the Maastricht Principles providing key elements for defining extraterritorial scope.

48. Reference was made to national initiatives by which States sought to impose obligations of corporate human rights due diligence, including in relation to operations abroad, and the reversal of the burden of proof in investigating complaints of corporate abuse. However, it was reported that those initiatives faced strong resistance from the business community.

49. Calls were made for the creation of a body to receive and investigate complaints submitted by affected communities or their representatives.

50. It was proposed that the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters should form the basis for participation, access to justice and remedy provisions in a binding instrument. A reference was also made to the Committee on the Elimination of Discrimination against Women, which had set out extraterritorial obligations with regard to discrimination against women, extending to acts of national corporations operating extraterritorially.

51. One panellist highlighted the need to provide the most vulnerable groups with legal tools to claim their rights, including through capacity-building in host countries. Cooperation between States and judicial bodies was deemed as essential to ensure the implementation of decisions.

52. One panellist did not share the view that trade agreements could result in adverse human rights impacts and that all investment arbitration tribunals aligned with the interests of investors. A State could denounce and withdraw from an investment treaty at any time. On the question of how power could be rebalanced vis-à-vis corporations, there were many positive initiatives, for example, the G7 CONNEX Initiative, as well as work carried out by UNCTAD. Additionally, the panellist warned that the proposed reversal of the burden of proof would not be in line with due process.

Subtheme 2. Jurisprudential and practical approaches to elements of extraterritoriality and national sovereignty

53. The first panellist indicated that a binding instrument should clarify the home State's responsibility to impose an obligation on transnational corporations to comply with certain norms wherever they operated, for example, due diligence requirements for prevention of harm, disclosure and reporting requirements, as well as the courts' jurisdiction in that State for corporate human rights abuses committed anywhere the business concerned operated. The International Court of Justice had clarified that a State's obligations to respect human rights applied beyond the State's territory when there was a link between the State and the activity taking place abroad.

54. The second panellist recalled that corporations had obligations under international law and asserted the need to close legal gaps. While States had obligations to protect citizens from corporate human rights violations, when they failed to meet those obligations or were too weak to do so, there was often no liability before international tribunals or domestic courts of other countries. Placing obligations on States to create national legal frameworks could also risk undermining human rights by resulting in differential standards. In the race to the bottom, corporations could relocate their operations to States with lesser protections.

55. The third panellist identified different levels for providing a reasonable opportunity for victims to obtain a remedy for human rights abuses committed by transnational corporations. Level 1 would comprise national and subnational legal systems. Level 2 would entail the engagement of an international or regional ombudsperson who could intervene on behalf of weaker plaintiffs against more powerful corporations or States. At level 3, which would be at the level of the home State or a country with a significant presence of assets held by transnational corporations, there would be a specific role for extraterritorial application of law. Level 4 — the international level — would include a role for an international court on transnational corporations and human rights. Level 5 would comprise a register of all pending cases concerning transnational corporations and human rights.

56. The fourth panellist suggested drawing lessons from the implementation of two international instruments designed to protect human rights from abuses by transnational corporations, namely, the International Code of Marketing of Breast-milk Substitutes and the WHO Framework Convention on Tobacco Control, both developed under the auspices of WHO. First, it was important to have the data to support the treaty provisions, especially data that demonstrated the ways Governments bore the costs of repairing the damage caused by human rights abuses committed by transnational corporations, for example, costs related to health care, water and sanitation, and the repair of environmental damage. Second, the panellist urged the use of the precedents set through the Framework Convention to protect the working group process from conflicts of interest and corporate interference (see art. 5 (3) of the Framework Convention) and to develop a civil and criminal liability regime (see art. 19).

57. The fifth panellist stressed the importance of holding transnational corporations accountable also for failure to prevent harm. The Rome Statute of the International Criminal Court excluded the consideration of crimes linked to the economy. However, the experience and rulings of the Permanent Peoples' Tribunal demonstrated that crimes committed by transnational corporations could be adjudicated, including when they constituted crimes against humanity.

58. Some delegations stressed the importance of States adopting measures to protect human rights at the domestic level and noted that many were already regulating corporate

behaviour in relation to issues such as workers' health and safety. Some countries already had provisions for extraterritorial jurisdiction in place for certain issues.

59. Delegations also noted that there was frequently a lack of cooperation between home and host States, which resulted in victims not having access to justice. A binding instrument must strengthen such cooperation, including by fortifying the legislation of home States to prevent cases from being rejected on jurisdictional grounds.

60. Another element raised by delegations was the establishment of a national mechanism, such as an ombudsman's office, that could receive complaints and produce reports.

61. Delegations again highlighted the issue of extraterritoriality, noting that several treaty bodies had recognized the obligation of States to prevent third parties from violating human rights. It was suggested that treaty bodies, for example the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, could also be instructive with regard to preventative measures. The need for States to take measures to ensure protection against human rights violations committed by companies abroad, as long as there was a reasonable link between a State and the company's activities, was stressed.

62. One participant drew attention to a number of successful cases brought against corporate actors worldwide. Corporate actors were found to bear the primary responsibility for violations in approximately half of those cases; in the other half, the State or its agents were found to be the primary actor, with the company being complicit in the State's action.

63. Parties to a future instrument should cooperate in the enforcement of judgments, thereby addressing some of the challenges faced in terms of access to remedy. One panellist referred to multiple models at the inter-American level and in the arbitration sphere where States had designed instruments for cooperation in that regard.

64. Another panellist stressed that a binding instrument would need to clarify that human rights are truly universal, and the fact that an entity was incorporated in a particular jurisdiction should not be used to avoid liability. There was a need to impose obligations on all actors with capacity to violate human rights. A treaty would also need to include provisions for dealing with jurisdictional challenges that arose in the context of complex investment flows, as well as address evidentiary and procedural obstacles.

C. Panel III. Obligations and responsibilities of transnational corporations and other business enterprises with respect to human rights

Subtheme 1. Examples of international instruments addressing obligations and responsibilities of private actors

65. The first panellist presented the example of the WHO Framework Convention on Tobacco Control, which provided a good opportunity to enhance public health and change business models, since it provided the possibility for mutual reinforcement among treaties, holding corporations accountable for products, policies and practices that were harmful, as well as for excluding corporations with conflicts of interest from policymaking at all levels.

66. The second panellist referred to several instruments adopted over the previous four decades that directly addressed the responsibility of business enterprises, such as the OECD Guidelines for Multinational Enterprises, the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of ILO, the United Nations Global Compact and the standard of the International Organization for Standardization providing guidelines for social responsibility (ISO 26000), which were, or were intended to be, in line with the Guiding Principles.

67. The third panelist presented the work and experience of ILO, focusing on three types of instruments, namely, international labour standards, fundamental principles and rights at work and the Tripartite Declaration.

68. The fourth panelist referred to the rapid growth of corporate social responsibility and sustainability and noted the still limited legislation regulating transnational corporations and the general opposition of corporations to such legislation.

69. The fifth panelist stated that there was no legal obstacle to international law imposing obligations and responsibilities on private non-State actors. He provided examples of several treaties and other instruments that did so, including the Guiding Principles. He agreed that States could impose direct obligations on non-State actors in a treaty, in addition to the obligations imposed on States themselves. That would make it easier for victims to seek remedy without the help of State agencies and to negotiate out-of-court settlements.

70. One delegation mentioned the existence of regional instruments, such as the Charter of the Organization of American States (art. 18), in which general principles on the responsibility of businesses were recognized.

71. Another delegation noted that there was no comprehensive international instrument addressing global corporate accountability, leaving the door open to a legal vacuum and potential violations. Moreover, voluntary mechanisms could not be compared to legally binding rules that recognized transnational corporations and other business enterprises as bearers of direct human rights obligations.

72. Another delegation described how the Universal Declaration of Human Rights imposed obligations to respect human rights on all actors of society, including transnational corporations. The legally binding instrument proposed must include provisions to protect public services of common interest, for example provisions relating to the right to water and respect for mother earth; provisions to protect individual and collective human rights, including the rights of peasants; and a monitoring mechanism.

73. According to another delegation, national systems of justice were experiencing challenges in preventing transnational corporations from committing human rights violations, as well as in the areas of prosecuting perpetrators and compensating victims.

74. Another delegation noted that the Tripartite Declaration was weak in human rights language and was currently under review.

75. Several delegations considered that a binding instrument should set out direct responsibilities and obligations for transnational corporations while making clear distinctions between obligations borne by companies and those borne by States. No loopholes should allow transnational corporations to escape their responsibilities, and a mechanism should be established to evaluate corporate due diligence.

76. Many NGOs expressed the view that voluntary principles were not effective in ensuring the regulation of transnational corporations, for example food corporations, with respect to their impact and responsibilities in terms of public health.

77. NGOs submitted that a binding instrument would also need to apply to international financial institutions and banks that provided corporate funding. One NGO drew attention to the so-called Panama Papers, which had revealed that corporations avoided taxes and obtained fiscal benefits to maximize profits, thereby contributing to tax fraud and exacerbating inequality and poverty.

78. It would be important for the working group to replicate article 5 (3) of the WHO Framework Convention on Tobacco Control to avoid undue influence from commercial and other vested interests.

Subtheme 2. Jurisprudential and other approaches to clarify standards of civil, administrative and criminal liability of transnational corporations and other business enterprises

79. The first panellist stated that a binding instrument would not have to specify each individual human rights obligation of corporations, but should provide an analytical framework for how treaty bodies or domestic courts could further develop those obligations in a particular context. The approach of the Constitutional Court of South Africa, which provided for the direct application of constitutional rights obligations on private actors, could be instructive in that regard.

80. The second panellist outlined standards of civil liability for human rights abuses applicable to multinational parent companies in English tort law and their potential implications. The common law requirement of reasonable steps to avoid harm to those to whom a duty of care was owed overlapped largely with the human rights due diligence obligation. Therefore, he suggested a tort law approach for achieving corporate accountability, particularly in respect of parent companies and their potential negligence, but with some modifications to make it more universally applicable.

81. The third panellist noted that the global economy and corporations continued to operate in a system of segregation, racism, exploitation and inequality, in which human rights were violated without any actor being held accountable. Therefore, the philosophies of decolonization, feminism, rights of the child and the elderly, fairness, equality and security should be part of the framework of principles used in the treaty. The panellist identified evidence of corporate civil and criminal liability in domestic and international law, such as in the constitutions of the Gambia, Ghana, Kenya, Malawi and South Africa, which provided for the horizontal application of human rights, including with regard to the activities of corporations. Further guidance could be found in the criminal codes of Australia, South Africa and the United Kingdom of Great Britain and Northern Ireland, which included provisions on corporate criminal liabilities, and in the African Union draft protocol on amendments to the Protocol on the Statute of the African Court of Justice and Human Rights.

82. The fourth panellist stressed that any discussion of a treaty should include the issue of its ratification by certain countries, and the ability to effectively enforce any corporate liability under that treaty. The treaty should be focused on clarifying liability standards to judge corporate conduct with respect to human rights. In that connection, he recalled the importance of the application of the standards of knowledge and purpose as components of mens rea in order to determine corporate liability or negligence.

83. The fifth panellist proposed basic principles that should inform the treaty: corporations should be subject to private civil liability as well as to administrative or criminal enforcement sanctions by the State, in the same way as a natural person; certain principles, such as the legal liability of corporations for abuses within their sphere of influence, when they have caused, profited from, contributed to or failed to prevent the harm, were common to all legal systems and therefore should be used in a treaty; victims should have the right to hold transnational corporations liable either in the place where the subsidiaries operated and where the harm occurred, or in other places where the company was present; the treaty should provide for the elimination of the doctrine of *forum non conveniens* and the concept of the corporate veil in human rights cases; and the treaty should provide for the liberalization of the rule of discovery and the enhancement of international cooperation. The relevant European Union regulations and the United Nations Convention against Corruption were good models for, among other things, the exchange of technical expertise and information among States and the shifting of the burden of proof.

84. The sixth paragraph presented the health and environmental impacts of shipbreaking in Bangladesh to demonstrate issues related to liability and how corporations escaped accountability as a result of the lack of a binding standard.

85. Delegations stressed the need for clear regulations to prevent corporations from committing abuse and to hold corporations accountable for any abuse, since administrative liability and sanctions did not provide victims with redress. While civil liability could be a possible avenue to secure accountability, it often involved complex, lengthy and costly procedures, particularly when transnational corporations were domiciled in third countries. Regarding criminal liability, a binding instrument could correct a historical failure by making legal persons liable, as was expected for article 25 of the Rome Statute, and by attributing criminal responsibility to corporations.

86. Questions were raised in relation to the identification of the competent court; the definition of liability standards, including the criteria for establishing liability; and the implications for the principles of universality, independence and interrelatedness of all human rights. Also raised were questions on how to address damage that affected an entire population or several generations and on the elements of criminal liability that would apply to the company itself and possibly its managers.

87. One delegation mentioned the 2016 report of the International Law Commission, which included a section in which the Commission's Special Rapporteur on crimes against humanity outlined arguments to support the international criminal liability of legal entities.

88. Given that corporations operated increasingly in conflict-affected areas, another delegation raised the issue of corporate liability for breaches of international humanitarian law and the need to incorporate into the legally binding instrument references to international humanitarian law as part of the corporate due diligence in such areas.

89. Some delegations were of the view that transnational corporations also had positive obligations to take active steps to realize human rights for all, including by contributing to the mobilization of resources for the realization of the right to development and economic, social and cultural rights globally, with a view to ending poverty.

90. One delegation reiterated that, in addition to liability standards, the treaty should include references to international cooperation for investigations and enforcement, as was the case in the Convention against Corruption.

91. Some NHRIs recalled the legal obstacles to establishing the civil liability of transnational corporations at the national level. Self-regulation and regulation without monitoring by a third party did not work, thus there had to be a binding instrument and a court to enforce it. Other proposals for elements to be covered by a treaty included the compulsory disclosure of, *inter alia*, the compositions, subsidiaries and supply chains of companies.

92. One participant noted that the OECD guidelines and national contact points had been essential in establishing what expectations States have of companies, and had helped to change behaviour regarding human rights, facilitating faster access to justice through mediation, as opposed to litigation. It was also asserted that there had been progress by companies in integrating the Guiding Principles throughout their activities and operations; the principles should be the basis of the working group's work.

D. Panel IV. Open debate on different approaches and criteria for the future definition of the scope of the international legally binding instrument

93. The first panellist argued that the changing character of transnational corporations made it difficult to define them. While he cited the pragmatic approach of the OECD guidelines, he considered that a precise definition of transnational corporations or other business enterprises was not required. According to UNCTAD, from a universe of 200 million enterprises registered worldwide, only 3,200 had operations of a transnational character, accounting for less than 1 per cent of all enterprises. According to OECD, the remaining 99 per cent were domestic small and medium-sized enterprises. Thus transnational corporations were clearly a distinct group within the universe of business enterprises. The treaty should be complementary to the Guiding Principles, committing States, transnational corporations and other business enterprises to put the principles into practice, with a view to, among other things, supporting the implementation of the Sustainable Development Goals and creating new models of business and investment.

94. The second panellist, referring to a call for the treaty to cover all businesses, recalled that the scope used for certain national and regional laws was much more narrowly defined, citing, for example, the draft law on duty of care in France and the non-financial reporting initiative of the European Union, which covered only companies with over 500 employees. Nevertheless, the priority focus of the treaty should be on transnational corporations, applying to all their subsidiaries and business relationships, as well as to all the companies in their global supply chains, including subcontractors and financiers, and eventually to all companies that perpetrated, or were complicit in, human rights violations. Many transnational corporations were more wealthy and powerful than the States trying to regulate them. They could influence judicial institutions or block binding regulation through heavy lobbying, or simply relocate to other countries, leaving victims without redress. The panellist defended the need to address the role of public finance and foreign investment, as well as investor-State dispute settlement proceedings.

95. The third panellist made reference to the Guiding Principles as a step in the right direction. However, he deplored the fact that they were voluntary, including with respect to issues such as the obligation of transnational corporations to pay their fair share of taxes, which could be interpreted as part of due diligence, but nevertheless was not included in the Guiding Principles. With respect to promoting the right of access to information, the panellist recalled his recommendation to the General Assembly for States to provide protection for whistle-blowers. He also invited States to put teeth in the Guiding Principles, to develop monitoring mechanisms and to prohibit aggressive tax avoidance and tax havens, in order to ensure transparency and accountability.

96. The fourth panellist recalled OECD and ILO efforts to define transnational corporations; the subjective scope of the treaty was clearly defined in the footnote in resolution 26/9. He criticized the arguments against such a footnote, quoting the common practice in the jurisprudence of the World Trade Organization and other frameworks that assigned footnotes the same legal weight as the paragraphs of an instrument, resolution or decision. He posited that focusing the treaty on transnational corporations would not entail any discrimination, as local companies were already subject to regulation and did not have the possibility to evade their responsibilities in the same way as transnational corporations. In terms of which human rights should be included, he had observed an emerging consensus around the core human rights covenants and the need to ensure broad coverage.

97. The fifth panellist claimed that the Guiding Principles did not provide robust remedies in cases of human rights abuses by transnational corporations, and mentioned the plurilateral agreements of the World Trade Organization as an example of relevant

instruments for remedy. The Montreal Protocol on Substances that Deplete the Ozone Layer set out general principles followed by articles on procedural aspects and included an annex that could be expanded and modified at the meeting of the parties to ensure precision and flexibility. The treaty could include a section on enhanced compliance, a section on due diligence and a functional legal platform to provide support for national legal systems.

98. The sixth panellist focused on the potential form of the treaty, suggesting several possibilities: a detailed treaty setting out substantive and procedural matters, similar to the Rome Statute; a framework treaty setting out key principles and approaches, such as the United Nations Framework Convention on Climate Change; a core treaty with a series of annexes to deal with supervisory mechanisms and developments, such as the Vienna Convention for the Protection of the Ozone Layer; or an optional protocol to existing human rights treaties. The treaty should expressly cover enterprises owned or controlled by the State; it should also define the responsibilities of international organizations.

99. One delegation expressed the need to agree on a definition of transnational corporations before drafting a treaty and suggested using ILO or OECD definitions. Another delegation objected, referring to concepts such as terrorism or violent extremism that were not universally defined but were addressed in binding instruments.

100. Another delegation advocated for a clear reference to existing principles, including the Guiding Principles, but also to instruments relating to the environment, social security and transparency, among others.

101. Regarding the scope of the instrument, some delegations noted that the binding instrument would need to be adaptive to ensure that transnational corporations were prevented from evading their responsibilities. Some delegations pointed out that companies with domestic dimensions that were subject to national regulations did not have the same possibility to evade their responsibilities and could not be treated equally as compared to transnational corporations, thus an instrument regulating transnational corporations, including their subsidiaries, decision-making bodies and supply chain, would place transnational corporations and domestic business enterprises on a more equal footing.

102. It was observed that there appeared to be a consensus that the treaty should cover all human rights, including the right to development, as well as principles of universality, indivisibility, interdependence, equality and non-discrimination. One NGO noted that the experience of national truth commissions should also be considered in that context.

E. Panel V. Strengthening cooperation with regard to prevention, remedy and accountability and access to justice at the national and international levels

103. The panel discussion opened with a video message by Nils Muiznieks, Council of Europe Commissioner for Human Rights. Mr. Muiznieks recognized that business practices could have a negative impact on a variety of human rights, citing several examples of concern in that regard and expressing support for the Guiding Principles, which had formed the basis for a recommendation on human rights and business adopted recently by the Committee of Ministers of the Council of Europe. He recalled that the European Union had also recognized the Guiding Principles as the authoritative policy framework in promoting corporate social responsibility, and the European Commission had encouraged the development of national action plans for the implementation of the Guiding Principles. However, much remained to be done, including ensuring broad and inclusive participation in the process of implementation, all of which would feed into the work of the working group in elaborating an international legally binding instrument.

Subtheme 1. Moving forward in the implementation of the United Nations Guiding Principles

104. The first panellist noted that the Guiding Principles had led to some progress with regard to business and human rights but also recognized that the extent of their influence in national legislation was limited. She stressed the need to reflect and act, in order to offer genuine remedy and accountability. In France, the first initiative built on the Guiding Principles, which would have imposed civil and commercial, as well as criminal, liability on companies with over 500 salaried employees for human rights abuse, had been rejected in 2015. A less ambitious draft legislation was subsequently presented to the parliament, aimed at ensuring that no human rights were violated and no serious environmental damage or health risks resulted from corporate activities. It also contained specific provisions to prevent active or passive corruption; non-compliance would result in accountability for the company, including sanctions. The panellist expressed the hope that the draft proposal would be adopted soon, and also expressed hope for the "green card" initiative, through which national parliaments could jointly propose to the European Commission new legislative or non-legislative actions, or changes to existing legislation, in the interest of sustainability.

105. The second panellist presented the OHCHR accountability and remedy project, describing how it might be relevant to the discussion of the working group. The project had been initiated in May 2013 to support a more effective implementation of the third pillar of the Guiding Principles and ensure effective accountability and remedy for business-related human rights abuses. The project was aimed at identifying solutions to the legal, practical and financial barriers victims faced, and was based on an extensive multi-stakeholder process and on data and information from more than 60 jurisdictions. The outcome of the project was presented to the Human Rights Council, which had taken note of the work in its resolution 32/10. The guidance that emerged from the project covered public and private law, included provisions for addressing challenges appearing in cross-border contexts, and could be implemented through national processes, for example, national action plans or legal review processes, or through subregional, regional or international processes, such as the working group. Civil society and national human rights institutions could also draw on the guidance in terms of their advocacy at the national level and in forums such as the one provided by the working group.

106. Another panellist underlined that national action plans were one of the most important tools for implementing the Guiding Principles and that States needed to develop them as a matter of urgency. The Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group on business and human rights) had produced guidance on how to develop such plans. The binding instrument should strengthen the state of play in four areas: States' enactment of laws and policies for mandatory human rights due diligence in connection with business in their territory and jurisdiction; the inclusion of human rights provisions in bilateral investment treaties; the conduct of human rights evaluations; and efforts to ensure investor compliance with human rights norms. In drafting the binding instrument, attention should be paid to those most at risk of vulnerability or marginalization, including women, persons with disabilities and migrant workers. Consideration should be given to including in the instrument references to other human rights instruments, such as the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the United Nations Declaration on the Rights of Indigenous Peoples.

107. The European Union expressed support for the recommendation on human rights and business adopted by the Committee of Ministers of the Council of Europe, as well as for the accountability and remedy project and the recommendations emerging therefrom, including on improved cooperation between States on cross-border cases, and for the

activities carried out by the Working Group on business and human rights, including its annual forum. The European Union shared its latest policy developments relating to the Guiding Principles, aimed at implementing the principles through a smart mix of voluntary and regulatory measures. The representative expressed the European Union's commitment to developing peer learning, including across different geographic regions. The representative referred to the High Commissioner's report (A/HRC/32/19) and guidance, in which the High Commissioner indicated that business enterprises needed to have clear frameworks that could act as an effective deterrent. Some leading enterprises had shown remarkable progress, while others still needed to see the full benefit of ensuring respect for human rights.

108. Other delegations also expressed support for the Guiding Principles and referred to action taken at the national level to support their implementation. The need for complementarity between the Guiding Principles and a binding instrument was reiterated.

Subtheme 2. Relation between the United Nations Guiding Principles and the elaboration of an international legally binding instrument on transnational corporations and other business enterprises

109. The first panellist stressed that for any binding treaty to be meaningful, it needed to improve victims' access to both a court and effective legal representation. Legal remedies and procedures must be effective in practice, particularly to address all of the interrelated financial, legal, procedural and practical barriers that existed, including issues of jurisdiction in home courts, the corporate veil, reversal of the burden of proof, access to documents and information, the absence of class action mechanisms, legal representation and funding, costs and levels of damages.

110. The second panellist referred to existing general obligations for international cooperation under international law, as contained in Articles 55 and 56 of the Charter of the United Nations, and the opportunity that a treaty would offer for international legal and judicial cooperation. In relation to access to justice in cross-border cases, the panellist noted that effective investigation of complaints of human rights violations in another country required cooperation by police and judicial authorities of the host country and the collection of evidence. In that connection, he suggested that the following be considered: State obligations to enter into bilateral and multilateral agreements to facilitate requests for legal assistance and to ensure cross-border investigations; the establishment of mechanisms for exchange of information; and the provision of adequate training, information and support for law enforcement.

111. Some delegations noted that a binding instrument would be complementary to the Guiding Principles with regard to both fundamental and operational principles. Such an instrument would strengthen the State duty to protect, in particular with regard to effective compensation, while reaffirming States' regulatory capacity and accountability. One delegation observed that the Guiding Principles had not been negotiated through an intergovernmental process and therefore did not constitute codified international law.

112. The European Union and other delegations insisted that any further steps must be inclusive, rooted in the Guiding Principles and applicable to all types of companies. The European Union insisted that the motto should remain to implement existing obligations. Efforts should also be made to achieve broad international consensus and awareness among transnational corporations about a new instrument, to ensure impact and implementation. Civil society organizations and human rights defenders must also be involved in the process. In the intergovernmental process, as many Governments as possible must be on board in order to ensure a strong treaty.

113. Another delegation expressed support for the work of OHCHR and the Working Group on business and human rights, noting that national action plans would be essential for the implementation of the Guiding Principles and emphasizing that civil society and private actors must be involved in the process.

114. Some NGOs noted that national action plans needed to meet certain requirements, needed to ensure dialogue and transparency and needed to be based on the Guiding Principles, adapted to the national context and revised periodically. Some processes related to national action plans had revealed serious faults and were not necessarily delivering the required results. A legally binding treaty might be the best way to ensure appropriate access to justice and to create a common standard.

115. Other NGOs raised the issue of human rights defenders who, when opposing activities of transnational corporations, could face harassment, discrimination and even racism. Indigenous communities faced particular barriers in terms of access to justice. Some NGOs noted that efforts to strengthen the international normative framework were interdependent with efforts to strengthen national and regional frameworks.

F. Panel VI. Lessons learned and challenges to access to remedy (selected cases from different sections and regions)

116. The first panellist discussed practical challenges and opportunities that a binding instrument could address. A case study from a State emerging from conflict provided some specificities for addressing the need for effective remedies and redress in a post-conflict country. A binding instrument should codify and develop provisions for access to an effective remedy for wrongful conduct by both States and business enterprises, and would help to redress the inequality between corporate rights and obligations.

117. The second panellist exposed barriers to access to justice. She referred to her experience in supporting communities affected by large-scale projects for natural resource extraction, including challenges related to the lack of the following: transparency on the part of the entities and companies that had interests in the territories; access to information; spaces for participation; and the free prior informed consent of the affected population. She described other challenges related to the licensing and operational stages. A binding instrument would need to prevent violations and provide for mitigation of and remedy for negative impacts, addressing the multidimensional nature and effects of large-scale extractive projects.

118. A third panellist noted the importance of access to remedy, particularly for the most vulnerable and marginalized. She put forward several examples of cases to illustrate the lack of legal standing in the requested courts and the need for a broader definition of legal standing based on contextualized understanding of human rights violations and the possibility for representative, class and group actions. The panellist emphasized the need for a shift in the burden of proof, taking into account that even public prosecution authorities were at times reluctant to investigate cases involving corporate human rights violations. In situations of foreseeable risk, due diligence served as an analytical tool for managing risks relating to human rights, but liability standards should include strict liability and precautionary principles and be secured, for example through the reversal of the burden of proof and rebuttable presumptions. Jurisdictions should be allowed to consider the complementary responsibility of various corporate actors, even when the places of domicile of the actors were different.

119. A fourth panellist gave an overview of the Alien Tort Statute, by which courts in the United States of America were granted jurisdiction over claims made by a non-citizen of the United States physically present in the United States for violation of international law.

The overview included examples of how corporate defendant litigation under the Statute had held corporations accountable and provided remedies to survivors who had no other means of redress. However, over the previous few years the Supreme Court of the United States had severely limited such litigation, particularly in corporate defendant cases, restricting the extraterritorial scope of the Statute. Nonetheless, the Statute demonstrated that a robust system of litigation could lead corporations to pay closer attention to the adverse impacts of their operations and provide an opportunity for victims to expose abusive corporate behaviour and obtain meaningful monetary compensation.

120. One delegation asked whether it would be relevant for a treaty to mention not only legal, but also non-legal, complaint mechanisms, such as those of national human rights institutions, and enquired about the added value of such a wide range of formal and informal redress avenues.

121. Another delegation acknowledged that there had not been much progress in the implementation of the third pillar of the Guiding Principles. It offered to share information about an in-depth study that had been conducted on how to hold the national corporations of the delegation's country accountable even when they operated abroad, which had revealed ample opportunities in terms of access to justice, including through criminal laws.

122. In response to one delegation's question about different levels of access across nations to scientific evidence and the use of specific technologies to prove human rights violations, one panellist recalled the international obligation of scientific cooperation in environmental law and the need for a binding instrument to shift the burden of proof, while pointing to the need to increase education for judiciary and legal professionals on international human rights law.

123. One member of the Working Group on business and human rights stated that the Working Group would focus on the third pillar of the Guiding Principles in its upcoming reports and at its forum in 2017. He encouraged all stakeholders to use the Working Group's communication procedures.

124. In response to questions raised by several delegations on types of remedies, one panellist indicated that a wide range of options could be established through a treaty, but that all would need to fulfil the requirements of accessibility, independence, effectiveness and affordability. Local non-judicial bodies, such as corporate grievance mechanisms, national human rights institutions, ombudspersons and national contact points, were important since they were often more accessible. They could not, however, replace judicial mechanisms and thus were only complementary. They also required a lesser burden of proof and might allow for more creativity in the types of remedies granted, but procedural guarantees should be put in place for establishing such agreements.

125. In response to a question posed by some delegations on the type of international mechanism that could be established, one panellist indicated that he would prefer to use the monitoring system set up by human rights treaty bodies, which could receive complaints and authoritatively interpret the standards in the treaty through general recommendations.

126. Several NGOs reiterated the need to include the right to development as a founding and enforceable right in the treaty, as well as the rights to access to land, water and other resources, and the rights of migrant workers.

127. One organization reiterated that the utmost priority should be given to access to remedy on a domestic level through promotion of the rule of law, as such remedy was the most efficient in terms of cost and time.

128. Some NGOs noted that the binding instrument must remove obstacles blocking access to remedy in host and home States and should require States to abolish the corporate veil. The treaty should further oblige States to provide for civil and criminal liability and for appropriate redress in cases of corporate abuse of human rights. In such cases, the treaty should require a comprehensive approach to redress, and remedies should be culturally appropriate and gender sensitive. Some NGOs suggested drawing on existing sources of analysis of regional and international mechanisms, including the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the rights of indigenous peoples. Finally, the binding instrument should also include an explicit guarantee that the application of any agreement or non-judicial mechanism did not interfere with the right to judicial remedies.

V. Recommendations of the Chair-Rapporteur and conclusions of the working group

A. Recommendations of the Chair-Rapporteur

129. Following the discussions held during the session, and acknowledging the different views and suggestions on the way forward, the Chair-Rapporteur makes the following recommendations:

(a) A third session of the working group should be held in 2017, in accordance with resolution 26/9, in particular operative paragraph 3;

(b) Informal consultations with Governments, regional groups, intergovernmental organizations, United Nations mechanisms, civil society and other relevant stakeholders should be held by the Chair-Rapporteur before the third session of the working group;

(c) The Chair-Rapporteur should prepare a new programme of work on the basis of the discussions held during the first and second sessions of the working group and the informal consultations to be held, and present that text before the third session of the working group for consideration and further discussion thereat.

B. Conclusions of the working group

130. At the final meeting of its second session, on 28 October 2016, the working group adopted the following conclusions, in accordance with its mandate established by resolution 26/9:

(a) The working group welcomed the opening message of the United Nations High Commissioner for Human Rights and thanked Mr. Sachs for serving as keynote speaker. It also thanked a number of independent experts and representatives who took part in panel discussions, and took note of the inputs received from Governments, regional and political groups, intergovernmental organizations, civil society, NGOs and all other relevant stakeholders;

(b) The working group welcomed the recommendations of the Chair-Rapporteur and looked forward to the informal consultations ahead of, and the new programme of work for, its third session.

VI. Adoption of the report

131. At its 10th meeting, on 28 October 2016, the working group adopted *ad referendum* the draft report on its second session and decided to entrust the Chair-Rapporteur with its finalization and submission to the Human Rights Council for consideration at its thirty-fourth session.

Annex I

List of participants

States Members of the United Nations

Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Czechia, Democratic Republic of the Congo, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Kenya, Japan, Kazakhstan, Libya, Luxembourg, Mauritania, Mauritius, Malaysia, Mexico, Mongolia, Morocco, Myanmar, Namibia, Nicaragua, Netherlands, Niger, Norway, the Republic of Korea, Pakistan, Panama, Peru, Portugal, Qatar, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saudi Arabia, Serbia, Slovakia, Singapore, South Africa, Spain, Switzerland, Tajikistan, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Non-member States represented by an observer

Holy See; State of Palestine.

United Nations funds, programmes, specialized agencies and related organizations

International Labour Organization, United Nations Conference on Trade and Development, United Nations Environment.

Intergovernmental organizations

Council of Europe, European Union.

Other entities

International Committee of the Red Cross.

Special procedures of the Human Rights Council

Working Group on Business and Human Rights.

National human rights institutions

The National Human Rights Council of Morocco.

Non-governmental organizations in consultative status with the Economic and Social Council

American Bar Association, Amnesty International, Asia Pacific Forum on Women, Law and Development (APWLD), BADIL Resource Centre for Palestinian Residency and Refugee Rights, Caritas International, Center for Accompaniment of Unemployed Girls (CAFID), Centre Europe-Tiers Monde (CETIM), Centro de Estudios Legales y Sociales (CELS), Comité Catholique contre la faim et pour le développement (CCFD), Coopération Internationale pour le Développement et la Solidarité (CIDSE), Corporación Centro de Estudios de Derecho Justicia y Sociedad (DEJUSTICIA), Corporate Accountability International (CAI), Dominicans for Justice and Peace, Earthrights International, Education International, Federation International des Droits de l'Homme, Fondation des Oeuvres pour la Solidarité et le Bien Etre Social (FOSBES), FoodFirst Information and Action Network (FIAN) International, Franciscans International, Friends of the Earth International, Gifa Geneva Infant Feeding Association, Indian Law Resource Center, Institute for Policy Studies, International Baby Food Action Network (IBFAN), International Accountability Project, International Association of Democratic Lawyers, International Chamber of Commerce, International Commission of Jurists, the International Federation for Human Rights (FIDH), International Institute of Sustainable Development, International NGO Forum on Indonesian Development, International Service for Human Rights (ISHR), International Organisation of Employers (IOE), International Union for Conservation of Nature (IUCN), Peace Brigades International, Plataforma Internacional contra la Impunidad, Public Services International, Réseau International des Droits de l'Homme, (RIDH), Society for International Development, South Centre, Women's International League for Peace and Freedom.

Annex II

List of panellists and moderators

Monday, 24 October 2016

Keynote speaker

- Mr. Jeffrey Sachs, Columbia University (videoconference)

Panel I (15:00-18:00)

Overview of the social, economic and environmental impacts related to transnational corporations and other business enterprises and human rights, and their legal challenges

- Jean Luc Mélenchon, Member of the European Parliament
- Richard Kozul-Wright, Director of the Division on Globalization and Development Strategies, UNCTAD
- Christy Hoffman, Deputy Secretary General, UNI Global Union
- Natalie Bernasconi-Osterwalder, Group Director, Economic Law & Policy programme, International Institute for Sustainable Development
- Carlos Correa, South Centre
- Susan George, Transnational Institute

Tuesday, 25 October 2016

Panel II (10h00-13h00)

Primary obligations of States, including extraterritorial obligations related to transnational corporations and other business enterprises with respect to protecting human rights

Subtheme 1: Implementing international human rights obligations: Examples of national legislation and international instruments applicable to transnational corporations and other business enterprises with respect to human rights

Moderator: Ambassador Negash Kebret Butera, Permanent Representative of Ethiopia to the United Nations

- Daniel Aguirre, International Commission of Jurists, Myanmar
- Ariel Meyerstein, US Council for International Business
- Ana María Suárez-Franco, FIAN International
- Juan Hernández-Zubizarreta, University of the Basque Country

Panel II — cont'd (15h00-18h00)**Subtheme 2: Jurisprudential and practical approaches to elements of extraterritoriality and national sovereignty**

- Kinda Mohamedieh, South Centre
- David Bilchitz, Professor, University of Johannesburg, Director of South African Institute of Advanced Constitutional, Public, Human Rights and International Law
- Harris Glickmann, Centre for Governance and Sustainability, University of Massachusetts, Boston
- Lucie Margulies, Corporate Accountability International
- Gianni Tognoni, Secretary General, Permanent Peoples' Tribunal

Wednesday, 26 October 2016**Panel III (18h00-19h00)****Obligations and responsibilities of transnational corporations and other business enterprises with respect to human rights****Subtheme 1: Examples of international instruments addressing obligations and responsibilities of private actors**

Moderator: Archbishop Ivan Jurkovic, Apostolic Nuncio, Permanent Representative of the Holy See to the United Nations

- Vera Luiza da Costa e Silva, Head of the Secretariat of the Framework Convention on Tobacco Control
- Linda Kromberg, Secretary General, International Organization of Employers
- Githu Rowland, Head of Multinational Enterprises and Enterprise Engagement Unit, ILO
- Michael Hopkins, CSR Finance Institute
- Sorya Deva, Associate Professor, School of Law, City University of Hong Kong, and Member of the UN Working Group on Business and Human Rights

Panel III — cont'd (15h00-18h00)**Subtheme 2: Jurisprudential and other approaches to clarify standards of civil, administrative and criminal liability of transnational corporations and other business enterprises**

Moderator: Ambassador Ntshindo Jozwe Mshahane-Dioko, Permanent Representative of South Africa to the United Nations

- David Bilchitz, Professor, University of Johannesburg and Director of South African Institute of Advanced Constitutional, Public, Human Rights and International Law
- Nomsinde Nyembe, Attorney, Business and Human Rights, Centre for Applied Legal Studies
- Richard Meenan, Partner, Leigh Day & Co
- Michael Congia, Shareholder, Litter Mendelson

- Michelle Harrison, Earth Rights International
- Rumana Hassan, Friends of the Earth, Bangladesh

Thursday, 27 October 2016

Panel IV (10h00-11h00)

Open debate on different approaches and criteria for the future definition of the scope of the international legally binding instrument

Moderator: Ambassador Robert Mathew Michael Tene, Deputy Permanent Representative of Indonesia to the United Nations

- Khatif Hamdani, Visiting Professor at the Graduate Institute of Development Studies, Lahore School of Economics, Pakistan
- Anne van Schaik, Friends of the Earth, Europe
- Alfred de Zayas, Independent Expert on the promotion of a democratic and equitable international order
- Carlos Correa, South Centre
- Harris Gleckman, Centre for Governance and Sustainability, University of Massachusetts, Boston
- Robert McCorquodale, Director, British Institute of International and Comparative Law

Panel V (15h00-16h00)

Strengthening cooperation with regard to prevention, remedy and accountability and access to justice at the national and international levels

Moderator: Ambassador Beatriz Lindolfo Soto, Permanent Representative of Colombia to the United Nations

Subtheme 1: Moving forward in the implementation of the United Nations Guiding Principles on Business and Human Rights

- Danielle Auroi, Member of the National Assembly of the French Republic
- Nils Muiznieks, Commissioner for Human Rights, Council of Europe (video message)
- Lena Wendland, Adviser on Business and Human Rights, OHCHR
- Sorya Deva, Associate Professor, School of Law, City University of Hong Kong, and Member of the UN working group on Business and Human Rights

Friday, 28 October 2016

Panel V1 (10:00-11:00)

Lessons learned and challenges to norms to norms (selected cases from different sectors and regions)

Moderator: Ambassador Fernando Estrella Boman, Permanent Representative of Nicaragua to the United Nations

- Daniel Aguero, International Commission of Jurists, Myanmar
 - Elisabet Poria Fernández, Tierra Digna
 - Claudia Miller-Moff, European Center for Constitutional and Human Rights
 - Beth Stephens, Professor, Rutgers-Camden law School
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